DIRECTORATE OF ECONOMICS AND STATISTICS
MINISTRY OF FOOD & AGRICULTURE
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AGRICULTURAL LEGISLATION IN INDIA

Vol. IX—AGRICULTURAL TAXES

(Agricultural Income-tax and Betterment Levy)



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CONTENTS

INTRODUCTION

(i) GENERAL

In India, as in many other economically less developed countries of Asia and the Far East having a predominantly agricultural economy, the level of domestic savings is low, capital formation and public investment inadequate, mass consumption tends to rise with every rise in income, and land values in areas benefited by public work projects irrigation works etc remain unstable Besides, there is a persistent inequity in the incidence of taxation and alongwith it the need to appropriate a portion of the 'unearned benefits' that accrue to lands in these areas for economic development These circumstances have combined, in recent years, to strengthen the case for reform of the existing agricultural tax structure and for reconstructi framework towards more energetic tax for a economic development Under-taxa minently in recent discussions on resources for ndia's Five Year Plans and there is a growing feeling that the agricultural sector as the largest segment of the economy must be suitably oriented to share a substantial portion of the cost of schemes for economic development through an intensive exploitation of agricultural tax potential

Capital accumulation through mobilisation of resources in a country like India

rural sector is non-cash), monetary policy by itself cannot be expected to enlarge xes in reducing the rural sector erefore, be used on an adequate

Generally, the selection of suitable methods of taxation is facilitated, if the objectives of economic policy are expressed in a comprehensive development plan, seeking to reorient the country's tax policy suitably In the Report of the Taxation Enquiry Commission (1953-54) an attempt was made to establish evidence of the increasing relevance of individual tax measures to the requirements of economic planning and the development programmes The guide lines provided by the Report have been helpful in exploring the possibility of using measures of taxation particularly to mobilise a larger quantum of resources and divert them into the desired channels With the commencement of the First Plan, efforts to expand tax

require urgent attention

There is general agreement that savings from individual farm incomes in India is notoriously small and there is little surplus available for investment Where the rental returns of many tenant families were concentrated in the hands of large landlords, the savings from such sources of agricultural income had, in the past, been largely diverted to urban and in many cases to industrial investments, but mostly to conspicuous consumption instead of for developmental purposes and

modernisation of production. As a corrective to this situation and as a means of encouraging investment and influencing the volume and intensity of resource use in the different sectors of the economy, appropriate measures of agricultural taxation have been considered to be one of the most effective steps.

The legislative framework of agricultural taxation in India is somewhat complex in some States and often suffers from lack of integration. Recent experience in a number of States shows a clear case for suitable codification of all the extant tax laws in the agricultural sector. As the level of literacy among the tax-payers in this sector is low, simplification of the statutes would make the task of interpretation of the provisions easier for the tax administrators.

Origin.—A historical account of the origin and evolution of land taxes in India and in certain other countries is presented in the succeeding paragraphs.

The principle that the State has a right to a share in the produce or income from cultivation of land has its roots in the distant past. It is difficult to say when precisely land taxes originated and in what form they were charged. Insofar as tradition and the available mass of historical data help, it can be said that the earliest land-taxes were usually associated with the conquest of territories and took the form of tributes levied by conquerer upon the subjugated people for the use of the conquered land. As time passed, it became customary for the rulers to appropriate from the owners of lands a certain share of the produce unless the same was remitted either as a special favour or in lieu of certain services rendered. History traces the existence of land-taxes in China to as far back as 4,000 B. C., when, it is said, Emperor Yu ordered the preparation of a rudimentary cadastre of the land in his Kingdom. He decreed that land be classified into three categories according to productivity and that a 10 per cent tax from the produce be paid in kind into the Imperial treasury[1]. A cadastre (special tax roll) based on a comprehensive survey of agricultural land is also known to have existed in early Egypt[2]. In India too, from time immemorial, it has been the practice with the monarchs to collect land revenue from those who cultivated land.

The rules and regulations for assessment of land tax are the result of a long but steady process of evolution. In China, for instance, the assessment based on the type of cadastre and the rates levied by Emperor Yu continued with only slight modifications upto the 8th century A.D. Even during the 8th century, when China experimented with the idea of a single tax on land (*i.e.* all other taxes were tied to the land tax), the land-taxes were still collected in kind. Further, though the land tax itself began to be collected there in money in 1580 A.D., some taxes known as 'grain tribute' continued to be collected in grain till the beginning of the 20th century. The development of an effective system of land taxation based on scientific principles may actually be said to have commenced with the passing of the French Land Tax Act in 1790. The French legislation served somewhat as a model for subsequent land-tax legislation in most of the countries of Europe and the Far East. In the United States after the formation of the Republic, the general property tax became the principal source of State and local Governmental revenues, but with real estate forming the bulk of the property tax base, the general property tax has assumed the nature of a special tax on land and improvements on land. In Australia, the first tax on land imposed in 1877 at the rate of 1¼ per cent of the capital value with exemption upto £2,500 was replaced in 1910 by a federal land tax graduated at rates varying from 1 *d.* to 6 *d.* The land taxes went through considerable reorientation during the post-war period. In fact, a wide variety of agricultural taxes have now been developed to obtain State revenues from agricultural production and the rural sector generally. A broad classification of these taxes relates to : (i) land taxes based on area, rental value, sales value, net produce etc., (ii) produce

1. Papers and Proceedings of the Conference on Agricultural Taxation and Economic Development, 1954, *p.* 416.

2. Encyclopaedia of Social Sciences. *Vol. IX*, *p.* 70.

taxes levied either at the point of production or at the marketing or processing stage or at the point of export of agricultural products, (iii) separate income-taxes or schedular taxes (i e a special schedule under the general income-tax), and (iv) special assessments such as a land betterment tax or a land value increment tax

Monarchical regimes in all parts of India have from ancient times raised the greater part of their State income by levying some sort of a charge on land Accor- ... re of the gross produce ... This share was gene- ... th in times of war or during other exigencies The revenue was assessed not on the individual cultivator, but on the community as a whole The aggregate harvest was collected into a common heap and the share of the State set aside by the village headman (gramadhikar) in the presence of the King's officers This simple method of assessment admirably suited the conditions prevailing in those days.

In the early days of Muslim rule, the State's share was converted into a *khiraj* or tribute and though a larger slice was now taken off the gross produce, the basis of assessment and the agency employed for collecting the tax remained the same as before However, with the growth of population and the extension of cultivation (following rapid expansion of the Muslim rule), however, certain complications arose which made the collection of revenue under this system a difficult process This led to a slight modification in the method of assessment whereby the State's share of the produce came to be determined on the basis of estimate of the standing crops Later, even this method was found unsuitable and State's share came to be assessed in terms of money payment The change over from grain-revenue to cash-payment marked a step forward in land tax development The Institutes of Timur embodied the first systematic attempt in this direction Some attempts at reforming the system were also made by Sher Shah But a major change ...

... tinued to be in force for nearly a century without any material alteration As the authority of the Central Government weakened, a number of additional levies in the form of *abwabs* or cesses were added by the Provincial Officers Sir John Shore calculated that the *abwabs* imposed by Jaffer Khan, Shujauddin Aliward Khan, amounted to about 33 per cent on the 'tumar' or standard assessment in 1658 and the impositions of the zamindars on the ryots came to more than 50 per cent of the same With the decline of the Moghul Empire, and during the anarchy that followed, these officers openly flouted the central authority and assumed full control over the territories which they administered Similarly the middlemen who were actually employed by the Government to collect land revenue assumed the rights of zamindars or owners of lands They recovered large amounts in the form or rent and cesses and paid only the fixed revenue to the Government

Such was the state of land revenue administration when the East India Company acquired the 'Diwani' right of civil and revenue administration of Bengal, Bihar and Orissa in 1765 The Company retained for sometime the prevailing land revenue system It was not until the arrival of Lord Cornwalis in 1784 that an attempt was made to place land taxation on some definite basis He saw that elaborate enquiries were made regarding the real jurisdiction, rights and privileges of zamindars, talukadars, and jagirdars and rules were issued between 1788 and

[1]. Sir Baden Powell—Land Systems of British India *Vol* 1, *p* 248.

1793 for a decennial settlement. On his recommendation, however, steps were taken to introduce a permanent settlement under a regulation issued in the same year (*i.e.* Regulation VIII of 1793). Under the Permanent Settlement land revenue was fixed in perpetuity approximately at 10/11th of the rents received by the zamindars. Though the settlement was extended to other parts of the country *viz.*, Banaras and parts of Madras and Assam, its continuance in that form became practically impossible in view of the entirely different circumstances prevailing in these Provinces. For example, in some parts of Madras, the land revenue was settled directly with the individual ryots in view of the difficulty of making settlements with the whole villages. This initiated the ryotwari system which was later introduced in Bombay and other areas. Similarly in Punjab and U.P. a different system of assessment known as the 'mahalwari system' was introduced according to which the settlement was concluded with the village communities and the villagers were held jointly and severally responsible for the payment of land revenue.

Till about a decade ago land revenue was the only important tax on agriculture. It was realised that the receipts from land revenue had become inelastic while the revenue requirements of States vastly increased. This happened in spite of the rise in prices of agricultural commodities and the consequent improvement in the incomes of agriculturists. Failure to carry out periodical resettlements and the regressive nature of land revenue contributed to the inelasticity of receipts from this tax. The inevitable result was that land revenue failed to serve the revenue purpose adequately and at the same time the principles underlying the methods of assessment soon tended to be at odds with the canon of equity. Various States have since imposed agricultural income-tax with a view to rectifying the defects of land revenue system. Agricultural income-tax was expected to make agricultural taxation progressive and also provide an element of elasticity to revenue from agricultural taxation. Besides these, agricultural income-tax seeks to reduce, if not remove, the discrimination in taxation as between agricultural and non-agricultural incomes. At present about 9 States and 1 Union Territory are levying agricultural income-tax. The details regarding the history and salient features of agricultural income-tax in various States are discussed in Section II(a).

Criteria for land tax.—The bases of land-tax assessment have varied among countries. Even within the same country, various methods have been used to assess the liability of the land-tax. Being essentially a tax on yield, the land-tax in its earliest form, was assessed on the basis of area. With the evolution of a complex social system, however, the considerations underlying the determination of this tax have undergone substantial modifications in the various countries. Broadly, land-taxes are levied on the basis of (i) capital value of land, (ii) estimated value of the produce of the land (net or gross), (iii) rental value and (iv) certain empirical or presumptive considerations. In a number of countries land-taxes take the form of levies on the value of land. For example, in U.S.A. the tax is assessed on the capital value or a given percentage of the value of land. In Chile, real estate etc., rural as well as urban, is subject to a general tax proportionate to the estimated actual value of the property. Argentina has an interesting combination of land-taxes assessed on the basis of values computed according to the average presumptive income of the land capitalized at the current rate of interest; a schedular income-tax levied at proprotional rates on land income and a progressive global tax on income including agricultural income at rates varying from 3 to 30 per cent. The taxation of land in Australia and New Zealand is based on unimproved ground values while improvements are exempted from the payment of a tax. Mexico levies the tax on annual production while in Iran, it is based on the concerned year's produce or the average gross production for a series of years. The gross produce also forms the basis of asssesment in the Far East. Rental value is taken as the taxable base in some countries. In England, the tax is levied on the income or rental value of land expressed as so many shillings in the pound or as a specified percentage of land rental. The and-tax in Peru is based on the actual rent of the leased land. Empirical consi- ations or presumptive techniques are also often used in a majority of countries

to assess the liability of the land-tax For instance, in some States in India the assessment of land-revenue at the time of settlement or revision is essentially based on the subjective impressions of the settlement officer Other bases of assessment used in the Indian States are (a) net assets or economic rents, (b) net produce or annual value, (c) rental value and (d) gross produce More than 90 per cent of the 'agricultual tax' in China is collected in kind For the purpose of assessment, standard annual yields per mou (0 16 acre) have been fixed on the assumption of average management and normal weather conditions and the calculation of the tax is made on the basis of these yields with reference to the area cultivated Ceylon, Malaya and Thailand instead of levying land-taxes, levy export duties on the principal export crops. Thailand instead of levying land-taxes, levy export duties on the principal export crops

Applicability of general taxation principles to land-taxation —Land taxes in the past were strictly proportional *i e* they were levied according to the purely objective nature of the tax base (*viz* real property) and did not take into consideration the personal circumstances of the tax-payer

From its position of being a basic tax on landed property, the land-tax has in the course of centuries been substantially modified in character and amount under the impact of changing economic, political and social environments The tax system, as a whole, has undergone a change from a simple to a very complex process with the evolution of economic life Generelly this change has not only affected the tax-base and the principles of assessment involved but has also helped the formation of some new concepts in taxation Changes in ideals of social justice and equity have further helped to transform the very foundation of tax systems Taxation today is inspired by two main aims *viz* (i) to meet the costs of government and (ii) to redistribute income usually in the interests of the poorer sections of the population The first of these relates to the financing of expenditure on administration, defence etc , and the second involves the adoption of measures for redressing such of the inequities in the distribution of incomes as are regarded socially undesirable or unjust It is this distributive aspect of the problem which has elicited much interest in recent years and has attracted the principle of progression on the basis of income or wealth In the face of the bewildering variety of taxes obtaining to-day, it is difficult to find any single canon of taxation which would be generally acceptable and would apply overwhelmingly to each one of the taxes. The more recent land taxes have come to incorporate the principles of progression graduation and differentiation according to type of crop, location or kind of farming For instance, in Italy the principle of graduation was introduced into the land tax system in 1917 In Japan, the
In Australia and New
character of tenure
higher rate than owner
be used for purposes other than fiscal In Australia, differential rates have been applied in order to discourage the formation of large estates, tenant farming and absentee land-lordism Like-wise, countries where the density of population is high, have made use of differential rates and exemptions to encourage certain types of cultivation and to promote improvements such as land reclamation and reforestation In India, the principle of progression was first sought to be applied to the land-tax system in 1860 by the imposition of a tax on agricultural income in addition to the ordinary land revenue In most of the South American countries such as Argentina, Brazil Chile and Mexico and also in a few countries of the Middle East such as Egypt and Lebanon, incomes from land are subject to a special or global tax schedule under the central income tax

Taxation of unearned increments.—Closely rela... ple
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Traces of this form of levy are known to be found in Roman history. The earliest English statutes which imposed such levies were passed in the fifteenth century when the cost of reconstruction of sea-walls, ditches and sewers were sought to be recovered from all the landed interests benefiting thereby. Similar developments are noticed in the fiscal history of France, Belgium and Germany. In U.S.A., a different device known as "special assessment" has been in operation for many years for the purpose of recouping the betterment due to specific public improvements. In India too, the recovery of a part of betterment accruing as a result of town-planning schemes has been in vogue for a long time. The Town Planning Acts of Bombay Madras, Bihar etc. provide for the levy of such a betterment fee or contribution. The Calcutta Improvement Trust Act also provides for a betterment fee on lands, the value of which has increased as a result of the execution of any improvement scheme.

The theory and assessment of betterment was developed in countries like U.K. and U.S.A. in the context of rapid urbanisation and implementation of town planning. The principle of betterment has been defined as "that persons benefited by public expenditure should contribute to such expenditure to the extent of the increased value of their property and this not only if improvement affected by the public authority was carried out for the purpose of conferring a benefit on such property but also if the resulting benefit was purely accidental, the expenditure having been undertaken for a totally different purpose". The application of the principle of betterment in U.K. was first limited to particular improvements carried out at public expense but was later extended to cases where property had increased in value, "by the operation of any provision contained in any scheme (of town planning)" whether that involved public expenditure or not. It is not, however, generally understood to include enhancement in the value of property arising from general community influences such as growth of urban population. In U.S.A. the special assessment in vogue, is a "compulsory contribution levied in proportion to the special benefits derived to defray the cost of specific improvement to property undertaken in public interest" and is charged on a *pro rata* cost or *pro rata* benefit basis.

In India, a betterment tax on lands brought under irrigation has been in vogue since 1888 when it was first levied in Mysore. Most of the States have now accepted the principle of the Government recovering from the beneficiaries a portion of the 'unearned benefits' that accrue to land as a result of irrigation facilities etc. through betterment levy. The First Five Year Plan strongly recommended to State Governments, the desirability of taking steps to promote necessary legislation for the levy of betterment fees on all lands benefited by irrigation projects.

The Taxation Enquiry Commission (1953-54), supporting this measure have pointed out that the imposition of such a levy would fulfil other desired objectives namely (i) stabilisation of land value, and (ii) in the present context of increasing cost of construction and development, provision of additional resources to Government to liquidate at least part of the capital cost of the project. The Commission dealt with the various aspects of the betterment levy, namely, taxation of unearned increment in land values; practices in other countries; maximum limit of betterment levy; period of payment; adjustment to price changes; and the case of minor irrigation works. The Taxation Enquiry Commission (1953-54) made the following recommendations :—

(i) The quantum of the levy may be fixed at a maximum of 50 per cent of the increase in value of land.

(ii) Its recovery should be spread over a reasonably long period.

(iii) It would be advisable for all States to provide specific relief in times of a steep fall in prices by way of postponement of instalments.

(iv) The tax cannot be imposed on certain types of minor works like wells, tanks etc There is however, justification for an additional levy on tube-wells and some of the large schemes in this class Even here, an appropriate method of recovery is to make a small increase in the water rate

Emphasising the need and desirability of the levy, the Second Five Year Plan recommends, among other things, that (i) "it is equitable that beneficiaries from tube-wells and such other minor irrigation works which provide secure irrigation are also included in the scope of legislation and required to pay betterment contribution", and (ii) "Legislation should be passed immediately in States where this has not been done, and necessary steps taken to commence realisation as soon as possible"

At present in 12 States and 1 Union Territory legislative provision has been made for imposition of this levy A comparative study of the main features of the different State enactments is contained in Section (ii) (b)

Section (ii) (a). AGRICULTURAL INCOME-TAX

(ii) (a). AGRICULTURAL INCOME-TAX*

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taxation that might be applied to agriculture Prof Heller has mentioned four bases justifying the imposition of a tax on

an agricultural income-tax may be leviec

instrument, (ii) as a mobilizer of savings,

a source of revenue in inflation and period of economic expansion [1]

In India, the imposition of income-tax on agricultural incomes is a belated recognition of the fact that simultaneously with the collection of revenues for the State, the State's fiscal policy in any sector should also aim at securing social justice in as large a measure as possible So long as land was, by and large, owned and cultivated by the same persons and rents were only nominal, land revenue could

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These inequalities in incomes provided the basic justification for a progressive tax on incomes in the agricultural sector Also, compared to non-agricultural incomes, land revenue has remained static despite recent shifts of income in favour of agricultural classes particularly of the large estate-holders Higher incomes from agriculture did not contribute to the exchequer to anything like the corresponding non-agricultural incomes, and the imposition of income-tax on agricultural incomes was the most direct method of correcting this anomaly

History and Main Provisions of Legislation

The levy of agricultural income-tax as an auxiliary to land revenue is only a recent origin Except for a brief period of nine years in all (i e from 1860 to 1865 and from 1869 to 1873) incomes from agriculture have, till recently remained exempt from any fiscal levy In 1878 when the income tax was replaced by a licence tax, a cess on land was imposed In 1886, the licence tax was merged in the general income-tax, but the existence of the cess led to the exclusion of agricultural incomes from the purview of the general income-tax Taking both Central and Provincial revenues together, at that time, land revenue served as the principal source of revenue During 1905-06, cesses on land were levied for purely local purposes and cesses levied for other purposes were abolished The complete separation of the Central and Provincial budgets under 'Diarchy' in 1921 marked a new stage in the financial history of the country Land revenue still dominated the Indian financial scene and income-tax was regared as merely a complement to it, derived from industry or professions

The Indian Taxation Enquiry Committee appointed by the Government of India in 1925 considered the broader aspects of land taxation and pointed out that there was "no historical or theoretical justification for the continued exemption

*For both Agricultural Income Tax and Betterment Lavy, data available up to March 31, 1961 have been incorporated to this publication

[1] Papers and Proceedings of the Conference on Agricultural Taxation and Economic Development, 1954 *pp* 270 272

from the income-tax of incomes derived from agriculture". While maintaining that there were certain administrative and political objections to the removal of this exemption, the Committee observed that there was ample justification for the proposal that incomes from agriculture should be taken into account for the purpose of determining the rate at which the tax on the other income of the same person should be assessed, if it should prove administratively feasible and practically worthwhile. However, no development took place until provincial autonomy on the basis of the Government of India Act, 1935 was introduced on 1st April 1937, when for the first time, agricultural income-tax was added to the list of taxes which the States (then Provinces) could levy for their own purposes. The imposition of a separate levy on agricultural incomes and its allocation to States are features which continue unchanged under the Constitution of the Republic.

Definition of Agricultural Income

The basic structure of agricultural income-tax legislation is similar to that of the Indian Income-tax Act, 1922. Under Article 366 of the Constitution, it is specified that 'agricultural income' shall mean agricultural income as defined for the purposes of the enactment relating to Indian Income-tax. The definition as given under Section 2(2) of the Indian Income-tax Act, 1922, is as follows :

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in the taxable territories or subject to a local rate assessed and collected by officers of the Government as such;

(b) any income derived from such land by—

(i) Agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of nature described in sub-clause (ii) ;

(c) income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of the rent-in-kind of any land with respect to which or the produce of which any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house or as a store-house or other out-house.

Accordingly legislative enactments relating to agricultural income-tax in States which levy the tax, incorporate the definition contained in the Indian Income-tax Act with a few slight modifications to suit local conditions.

The following categories of income have also come to be regarded as 'agricultural income' and treated as such for the purpose of agricultural income-tax assessment :

(*a*) income derived from the letting out of pasture land provided the animals pastured are agricultural animals,

(*b*) amount paid by mortgagor-lessee to the mortagegee under usufructuary mortgage,

(*c*) interest payable on arrears of rent,

(*d*) 'malikana' or some similar levy payable to a proprietor in lieu of surrender of all his proprietory rights to a transferee, whether or not the lands are used for agricultural purposes, and

(*e*) any agricultural income accruing to an assessee by virtue of a settlement or disposition whether revocable or not from assets remaining out of the property of the settler or disponer All agricultural income arising to any person by virtue of a revocable transfer of assets is deemed to be the agricultural income of the transferor

Taxable Income

Agricultural income tax is charged for each financial year in accordance with and subject to the provisions of the State Acts on the 'total agricultural income' of the previous year of every 'person' 'Persons' for the purpose of agricultural income tax are classified according to their status into individual, Hindu [illegible] of individuals whether incorpo-
property 'Individuals' would
if they are in receipt of agricultural income The term 'Hindu Undivided Family' includes an undivided Hindu Mitakshara family, an Aliyasanthana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties or a Nambudiri or other family to which the rule of impartibility applies The status of a firm is applied to partnerships formed according to the provisions of the Indian Partnership Act, 1932 Under the term 'Company' comes all the companies registered under the Indian Companies Act In addition to this, all foreign companies or associations whether incorporated or not also qualify for the status of a company Any other group of individuals which is not covered under any of the above mentioned categories is an association of persons or individuals

The 'previous year' also known as the accounting year refers either to the previous financial year or to a period of 12 months upto which the assessee had made up his accounts within the previous financial year Thus the year of agricultural income tax like the income tax year, is always ahead of the year of accounting by a year or so

Legislation

The circumstances leading to the imposition of the tax have not been the same in all States It was natural that the initiative to impose the tax should come from States with large permanently settled tracts where yield from land revenue [illegible], Bihar was the first to undertake legisla
ax in 1938 Other factors peculiar to
(a) the separation of Orissa whereby
the need of the [illegible]
(b) the introductic
fall in revenue r
Income tax Acts i
tions and other companies was probably the major attraction in these States Orissa followed suit in 1947, U P in 1948, Travancore Cochin and Hyderabad in 1950, Coorg in 1951, Rajasthan and Bhopal in 1953 and Madras and Mysore in 1955 The provisions of the Bengal Agricultural Income tax Act, 1944 and the U P Agricultural Income tax Act, 1948 were extended in a slightly modified form to the States of Tripura and Vindhya Pradesh in 1951 In the erstwhile State of Travancore, the imposi
by the abnormal rise in
of allowing the incomes to
measure By 1946, howe
and agricultural incomes came to be assessed along with the general income tax at the same rates

In U. P. and Mysore, the original enactments were extensively revised recently in the shape of new legislation. U. P. replaced the 1948 Act by passing the U. P. Large Land Holdings Tax Act, 1957 to provide for the levy and collection of a tax on large land holdings in the State. The principal arguments for the imposition of this new type of levy were that (a) the Agricultural Income-tax Act which was enacted at a time when Zamindari system was in force had become out of date in the context of post-zamindari abolition era; (b) more efficient exploitation of agricultural lands was essential for increasing the food production in the State. Those big holders who failed in their duty to intensify effort for larger production would not be in a position to make increased contribution to the exchequer in the form of holding tax and would be compelled to sell out. The incentive effect of this is significant; and (c) it was also in conformity with the principle of social justice enshrined in the Constitution which demanded that disparities between agricultural incomes be reduced. The new Agricultural Income-tax Act of Mysore, passed in 1957, seeks to consolidate the law relating to the levy of agricultural, income-tax in the different areas of the re-organised State and like the previous legislation applies only to incomes derived from commercial crops.

The main provisions of the principal Acts relate to (a) the procedure for computing agricultural income-tax and allowances; (b) assessment of tax in special cases; (c) refunds; and (d) provisions relating to the Administration of the Acts and penalties for infringement of provisions. The structure of legislation follows an almost uniform pattern in all the States except U. P., which recently enacted the Holdings Tax Act. The scope of the Acts, however, is not uniform, *e.g.*, in Mysore, the tax is leviable only on commercial crops. 'Commercial crops' in this particular context are intended to include plantation crops like cardamom, coffee, linaloe, orange, pepper, rubber or tea and one or more of the following crops :

areca, chillies, coconut, coriander, cotton, ganja, garlic, ginger, grapes, groundnut, mango, mulberry, onion, plantation (irrigated), potato, sesamum, sugarcane, tobacco or turmeric.

The 'holdings tax' in U. P., as distinguished from a tax on the agricultural income of an assessee, is leviable on the annual value of a land-holding and assumes to that extent the nature of impersonal taxation.

A. Procedure for Computing Agricultural Income-tax and Allowances

Agricultural income tax is charged for each financial year in accordance with and subject to the provisions of the State Acts on the 'total agricultural income' of the previous year of every 'person'. In its practical use, the term 'total agricultura income' means that part of the total agricultural income which is left over afte allowing for certain payments made by an assessee in connection with the culti vation of land. The usual practice is to assess first the actual gross agricultura income of the assessee on the basis of farm accounts and from such informatio as may be available locally regarding (a) the average produce of each crop, (b the prices of various items of agricultural produce at that time and from th gross income so arrived deduct such amounts as are admissible under the variou Acts. The principal deductions allowed by the States in calculating the taxabl part of the agricultural income are:—

(a) *Land revenue or rent*—All payments, made on account of land revenue to the State or of rent to a superior landlord including payments for loca rates and cesses are to be deducted. Some States allow further payment to be deducted under this head such as payments made on account of chowkidari rate in Assam and Bihar, municipal taxes in Madras, water rate or water cess, municipal taxes and chowkidari rate and the payments made under the Khondmals Laws Regulation or the Angul Laws Regulation in Orissa, municipal taxes, excise duty or tax on agricultural produce in Mysore, the Edavagai, the Sripandaravagai or the Sripadam, Janmikaram, Thiruppuvaram and municipal taxes in Kerala, water cess,

tax or rate in Rajasthan and abwab in Bhopal Further deductions are permissible in Assam, Bihar, Vindhya Pradesh and Hyderabad for the payment of 'malikana' or some similar levy

(b) *Collection charges* —Where agricultural income from rent or revenue forms the basis of taxation, collection charges are allowed to be deducted at a certain specified percentage of the total rent or revenue collected The deductions permitted under this head vary from 10 to 15 per cent in the various States In West Bengal, Tripura and Rajasthan this allowance can be increased to 20 per cent in case an assessee can produce his accounts properly audited The Acts in Kerala and Mysore allow the actual costs incurred in the process of collection to be deducted from the total income

(c) *Interest on mortgage or on capital invested on improvements* —All sums paid as interest on (i) mortgage or other capital charges or on any debt (whether secured or not) incurred for the purpose of acquiring the property from which agricultural income is derived, (ii) any capital borrowed for reclaiming or effecting improvements on the land, and (iii) any loans taken under the provisions of the Land Improvement Loans Act, 1883 or the Agriculturists' Loans Act 1884 are allowed to be deducted The rates of interest admissible under this head are not, however, to exceed 9 per cent on an [illegible] in these State

(d) *Expenses incurred on the maintenance of irrigation or protective works* —Any amounts paid towards the maintenance or current repairs of any irrigation or protective work including the upkeep of protective dykes and embankments are allowed to be deducted

(e) *Depreciation allowance and obsolescence* —Depreciation of buildings, machinery, plant, fencing materials, hosepipes, furniture etc purchased or constructed by the assessee for the purpose of deriving agricultural income, is allowed at certain specified rates or percentages on the written down value or prime cost of such capital assets These are given in Appendix I In respect of any obsolete machinery, plant or cattle which have been sold, discarded or replaced, enactments in Assam, West Bengal, Kerala, Mysore, Rajasthan and Tripura provide for the adjustment of the difference between the written down value (as defined for the purposes of Indian Income tax Act) and the amount for which such plant, machinery or cattle were actually sold or their scrap value

(f) *Insurance* —Any sums paid as premia towards insurance against loss of or damage to crops or property are to be deducted Any income received by an assessee in respect of such insurance is, however, deemed to be agricultural income and is liable to assessment of tax

(g) *Expenses of cultivation* —Where income from 'agriculture' forms the basis of taxation, actual expenditures incurred on the processes of cultivation are allowed to be deducted Broadly these processes relate to (i) raising the crop (ii) making it fit for the market and in transporting the same to the market and (iii) maintaining agricultural implements and machinery in good repair including the up keep of cattle The Rules framed under the Bhopal Act mention the following operations to be taken into account under this head —

(i) ploughing and hoeing

(ii) sowing including cost of seed

(iii) weeding

(iv) watering and irrigation
(v) harvesting and threshing of crops
(vi) making it otherwise fit for market
(vii) transporting the crop to the market
(viii) maintenance of animals maintained solely for carrying on agricultural produce limited to the cost of essential equipment other than the fodder and *bhusa* produced on assesee's own land
(ix) manuring
(x) watching of crops
(xi) temporary fencing and
(xii) customary annuities paid in cash or kind to artisans and other persons whose services are ordinarily required in connection with cultivation.

In West Bengal, Tripura and Rajasthan, instead of the actual costs of cultivation, a sum equivalent to 50 per cent of the market value of the produce is allowed to be deducted provided the lands from which agricultural income is derived are under the personal cultivation of an individual or members of a Hindu undivided family. In Madras the allowance made for replanting expenditure shall not exceed the amount necessary for replanting $2\frac{1}{2}$ per cent of the acreage if the crop is rubber or coffee, $1\frac{2}{3}$ per cent if the crop is arecanut or tea and $8\frac{1}{3}$ per cent if the crop is cardamom and 10 per cent if the crop is cinchona. Provision also exists for carrying forward the allowance for the year to a period of one to three years according to the crops sown. In case of new cultivation where expenditure has to be incurred for a number of years before agricultural income can be derived, the Mysore Act provides for the deduction of a special allowance amounting to 10 per cent of the expenditure incurred during the previous year for growing perennial crops and also on maintenance of plants or trees relating to such crops—yielding upto the period of the crop.

(*h*) *Tax on the cultivation or sale of crops.*—The Acts in Assam, Bihar, Madras, Orissa, Hyderabad and Rajasthan provide for the deduction of a tax, cess or rate levied on the cultivation or sale of crops.

Further details about these allowances are given in Appendix II.

The Bhopal and Vindhya Pradesh Acts offer an alternative method for computing agricultural income for purposes of assessment. According to this method, instead of going into details regarding costs of cultivation, the value of produce and various other allowances, the net assessable income is presumed to be $7\frac{1}{2}$ times the rent of the land calculated at the latest sanctioned rent rates applicable to cultivators or hereditary tenants of a similar class of soil. The inclusion of this method in the Acts is designed primarily to facilitate the work of computation, in view of the fact that many of the agriculturists do not maintain any proper accounts. With the passing of the U. P. Large Land Holding Tax Act, 1957, the basis of taxation in the State has undergone some slight modification in the sense that the holding tax is leviable, not on agricultural income but on the annual value of each land-holding. For purposes of assessment the annual value of a land holding is deemed to be an amount equivalent to a certain multiple (not exceeding $12\frac{1}{2}$) of the rent of the holding calculated either on the basis of the sanctioned hereditary rates applicable to that land-holding or on such principles as are prescribed by the State Government in this connection. The Act also gives power to the State Government to enhance these rates upto a maximum of 100 per cent.

(*i*) *Exemptions.*—Certain categories of agricultural income are altogether exempt from the assessment of agricultural income-tax *i.e.*, they are omitted completely in calculating a person's total agricultural income. Apart from allowing deductions of the type mentioned above, the State Acts also exempt the following main classes of income from the payment of tax :

(i) any sum received by a person as a member of a Hindu undivided, family the agricultural income of which has already been taxed,

(ii) any
trus
Thi

(iii) any sum which a person receives either as a dividend from a company or as share from a firm, association of persons or other source which has already been assessed to tax, and

(iv) amounts paid as insurance premia on the life of the assessee or as subscription to Provident Funds

Provided that the aggregate deduction in such cases does not exceed 1/6th of the total agricultural income of the assessee

The Mysore Act also provides for the exemption of the earned agricultural incomes of assessees The exemption on this account, however, is not to exceed 10 per cent of the total agricultural income subject to a maximum of Rs 2,000 in the case of an individual and Rs 4 000 in the case of a Hindu undivided family The term 'earned agricultural income' as defined in the Act means, "any agricultural income derived from personal cultivation of land, by an assessee, who is

in the assessee's agricultural income under the provision of this Act"

(j) *Assessment of a Hindu Undivided Family* —For purposes of assessment, agricultural incomes of a Hindu undivided family are accorded a special treatment In Bihar, Assam, Orissa, Hyderabad and Rajasthan the total agricultural income of a Hindu undivided or joint family is treated as the income of one individual and is assessed as such In
to the one mentionec
the State Acts Hov
xation in
exemp-
lual In
Bhopal the individual share of income of each coparcener is assessed to tax but for the purposes of such assessment (i) a father and a son or a son's son, howsoever low are treated as one coparcener and (ii) the income derived by a woman from her *stridhan* property is excluded from the agricultural income of the Hindu undivided family

B Liability to Assessment in Special Cases

(i) *Liability of guardian, trustee agents receiver, administrator, Court of wards Administrator General, etc* —When land is held by a guardian, trustee or agent on behalf of a minor or person of unsound mind or by a receiver, administrator, Court of wards etc on behalf of persons jointly interested in such land, the Acts specify that the assessment and recovery of agricultural income tax from such guardian, trustee, receiver, administrator would be done in the same manner as would have been done, had such person or persons been receiving such agricultural income directly In case the land is held for the benefit of several persons, the aggregate of the sums payable as agricultural income-tax by each person is recoverable from the common manager, receiver or administrator, etc

(ii) *Assessment/Liability in case of discontinued company, firm or association* —The Acts of Madras, Kerala West Bengal, Tripura, Mysore and Rajasthan contain specific provisions regarding the assessment and liability of a company, firm, or association in the case of cessation or discontinuance of its business Usually when business is discontinued assessment of agricultural income tax is to be made on the basis of agricultural income received during the period between the end of the

previous year and the date on which the business was discontinued together with the assessment, if any, made on the basis of the agricultural income received in the previous year. Persons discontinuing a business are required by the provisions of the Acts to notify the Agricultural Income-tax Officer the fact of such discontinuance within a specified period which is 15 days in the case of Madras and 30 days in other States. Failure to do this entails a penalty which may be as much as the amount of agricultural income-tax due.

The Acts also provide that in case of dissolution or discontinuance of a firm or association the partners or members of such firm or association shall be jointly as well as severally liable to assessment of agricultural income-tax. Specific provisions are also laid down in the Acts of these States for assessment in case of change in the constitution of a firm and succession to business and for assessment after partition of a Hindu undivided family.

(*iii*) *Non-residents*—The Acts in Madras, Orissa, Kerala, Mysore and Rajasthan provide that in the case of persons residing outside the State in which the tax is levied, all agricultural incomes accruing to such persons whether directly or indirectly through or from any land within the State shall be deemed to be received in that State and shall be chargeable to the agricultural income-tax of that State.

(*iv*) *Assessment of agricultural income in regard to tea*—The Acts of Assam, West Bengal, Tripura and Mysore contain specific provisions for the computation of agricultural income from tea. According to these Acts, agricultural income for the purposes of assessment is deemed to be that part of the income from cultivation, manufacture and sale as has been earmarked as 'agricultural income' under the provisions of the Indian Income-tax Act, 1922. Similar provisions for the taxation of mixed incomes exist in the case of West Bengal and Rajasthan.

C. Refunds

Refunds are allowed under the Acts in Madras, Kerala, West Bengal, Mysore and Rajasthan in respect of any amount of agricultural income-tax found to have been wrongly paid or paid in excess. Usually the claim for refund arises to an assessee in any of the following ways:—

(*i*) When he finds that the amount of agricultural income-tax paid by him or on his behalf is greater than the amount to which he is properly chargeable.

(*ii*) When the tax paid on the basis of the provisional assessment or in advance exceeds the amount of agricultural income-tax actually payable at the time of regular assessment (*e.g.* in Mysore).

(*iii*) When the amount of agricultural income-tax actually paid or assessed gets reduced on rectification of a mistake.

(*iv*) When the assessee derives income from dividend and the rate applicable to his total agricultural income is less than the maximum rate applicable to companies at which the dividend was assessed to tax.

(*v*) When reciprocal relief in respect of double taxation is due (*e.g.* in Kerala, West Bengal and Rajasthan).

When a person through incapacity, insolvency or liquidation or some other cause is unable to claim refund, the trustee, receiver, administrator or other legal representative can make a claim for refund on his behalf. Refund due to deceased person can also be claimed by his legal heirs, executors or administrators. The Acts in these States also empower the agricultural income-tax authorities to set off the amount of refund due to an assessee against the amount of agricultural income-tax, if any, due from him. The time-limit for claiming refund has also been prescribed in the Acts. As a rule the claim for refund is to be made within 4 years from the

last day of the financial year following the accounting year in West Bengal and Tripura and 3 years in Madras, Kerala, Mysore and Rajasthan The Acts in West Bengal, Rajasthan and Tripura also allow refunds of tax to be made to share holders, partners or members of a company, firm or association when such company, firm or association is deemed to have paid the agricultural income tax on their behalf in excess of the amount due from them The Acts specify further that the amount of refund due to such assessees shall be *the product of* the amount of

D Provisions relating to the Administration of Acts

1 *Administrative Machinery*—Except in U P, Bhopal and Vindhya Pradesh where the administration of agricultural income-tax is entrusted to the district revenue officers, the work is usually administered by the Agricultural Income-tax Departments Details regarding the machinery employed by the various States for this purpose are given in Appendix III

2 *Return of income*—The duty of filing a voluntary return of agricultural income is laid by the Acts of Madras, Mysore and Rajasthan upon all persons having taxable agricultural income In these States, it is in the interest of the assessees to see that they get forms of return of income in proper time and submit the same on or before a prescribed date *i e* 1st June every year The Acts in other States require the Agricultural Income-tax Officer to give a general notice to assessees to furnish, within a certain specified period (not less than 60 days in West Bengal, Bihar and Tripura and not less than 30 days in other States), a return of income setting forth their total agricultural income during the previous year The Agricultural Income-tax Officer can, in suitable cases, extend the time-limit for filing returns of income Besides the general notice, the Agricultural Income-tax Officer can send individual notices to persons believed to have taxable agricultural income The time-limit for furnishing the return in such cases is usually 30 days The Acts also provide that in case a person was unable to furnish the return within the specified period or having furnished discovered any omission or wrong statement therein, such a person can furnish a return or revised return, at any time before the assessment is made

3 *Assessment of income*—On receipt of the return of income, if the Agricultural Income tax Officer is satisfied that it is correct and complete, he shall straightaway assess the total agricultural income of the assessee and determine the sum due from him as agricultural income tax If he considers that the return is not correct and complete, he will issue notice to the assessee giving him the option either to attend in person at his office on a date specified in the notice, or to produce or cause to be produced ther
After hearing the evidence p
income of the assessee and
to furnish the return in response to a notice or to comply with the terms of a notice
can finalise the assessment *ex parte* to the best
essment of firms, the Acts of Madras, Kerala,
the assessment, in such cases, be made on the
ther than on the aggregate income of the firm
The Acts of Madras, Kera
tax Officer to refuse to regi
a 14 days' notice Where

6 years

4. *Income escaping assessment.*—In respect of income which has escaped assessment through concealment or omission of particulars furnished in the return, or has been under-assessed, or assessed at too low a rate or has been subjected to excessive relief, the Acts empower the Agricultural Income-tax Officer in such cases to proceed to assess or reassess such part or whole of the agricultural income at rates which would have been applicable to the agricultural income had it not escaped assessment or full assessment. The period during which such assessments can be re-opened is limited to 1 year in Bhopal and Vindhya Pradesh, 3 years in Assam, Madras, Kerala and Orissa, 3 to 5 years in Mysore, 3 to 6 years in Hyderabad and Bihar, 4 years in Rajasthan and 4 to 6 years in West Bengal and Tripura.

5. *Penalties.*—Penalties have been prescribed for any infringement or failure to comply with the provisions of the Acts. The Acts of West Bengal, Hyderabad, Rajasthan and Tripura provide that if an assessee while furnishing particulars of agricultural income or while making an appeal against orders of assessment makes false statement in declaration he shall be liable to punishment, on conviction before a magistrate with simple imprisonment which may extend to six months or with fine which may extend to Rs. 1,000 or with both. Legislation in Assam, Bihar, Madras, Orissa, Mysore and Vindhya Pradesh do not specify the punishment but regard it as a commission of offence to be dealt with in the same manner as described in Section 177 of the Indian Penal Code, 1860. In Kerala, however, this amounts to an offence mentioned under Section 170 of the Travancore Penal Code or Section 163 of the Cochin Penal Code.

Penalties are also prescribed under the Acts of States for failure to furnish return or to supply information particularly so when (a) the notice requiring the assessee to submit a return of agricultural income or to produce certain accounts or documents within a specified period has been served on the assessee or when as a member of a firm, or a trustee, guardian, agent, he has been asked by the agricultural income-tax authorities to furnish particulars of all the members of the firm or of persons for whom he is trustee, guardian or agent, (b) a certificate in respect of payment of tax by companies is required to be furnished at the time of distribution of dividends and (c) it is required to inspect or take copies thereof of the registers of members, debenture-holders or mortgagees of any company.

Any offence committeed, in such cases, is punishable with fine which may extend to Rs. 5 per day during the period of default in Assam, Bihar, Madras Kerala, Orrisa, Mysore and Vindhya Pradesh. In West Bengal, Tripura and Rajasthan the offender is required to pay a higher fine on the first day which may extend to Rs. 50 in West Bengal and Tripura and Rs. 25 in Rajasthan.

The Acts provide further that if in the course of assessment proceedings, the Agricultural Income-tax Officer finds that the assessee has deliberately supplied inaccurate particulars of income by which any portion of his total agricultural income has been concealed, he may direct such person to pay, by way of penalty, in addition to the amount of agricultural income-tax, a sum not exceeding that amount.

The Acts in Bihar, Madras, Kerala, West Bengal, Hyderabad, Mysore, Rajasthan, Vindhya Pradesh and Tripura also forbid a public servant to disclose except in certain permissible cases any particulars contained in any statement return, accounts, documents, evidence, affidavit, deposition, record of assessment or any proceeding relating to the recovery of demand on pain of imprisonment which may extend to 6 months together with fine.

6. *Exemption limits and rates of levy.*—The Acts specify the levels below which agricultural incomes are exempt from the payment of tax. The exemption limits have varied from time to time in the different States due to various reasons. At present, the exemption limit common to most States is Rs. 3,000. Orissa has the highest exemption limit of Rs. 5,000. The usual exemption limit for a ...

is Rs 25,000 Certain States have specified some further exemptions related to the size of holdings For instance, the provisions of the Bengal Act exempt an individual or a family from the payment of tax if the area of holding under their 'personal cultivation' is not more than 80 standard bighas In Vindhya Pradesh, exemption is allowed to a person who is cultivating not more than 30 acres of land and whose income from rentals does not exceed Rs 50 Similar exemptions allowed in other States are 40 acres of irrigated land or 120 acres of unirrigated land in Rajasthan, 50 acres of eighth class land or an extent equivalent thereto of any other class in Mysore and 12-1/2 standard acres in Madras In U P the holding-tax is not chargeable from a cultivator who does not cultivate more than 30 acres of land

The rates of agricultural income-tax are based on the 'slab system' according to which different rates are applicable to different slices of agricultural income, the rates progressively increasing with the rise of the slabs The rates differ according to the status of an assessee [illegible] from the assessees namely ([illegible] other association of persons, [illegible] (c) flat rates for companies [illegible] income-tax With the exception of Assam and Rajasthan where the Acts require the rates to be specified each year in the annual Finance Acts of these States, the rates in other States are given in the Schedules attached to the Acts on agricultural income-tax In addition to the usual tax, the Acts of Bihar, Kerala, Bhopal, Vindhya Pradesh and Rajasthan provide for the imposition of a super-tax on incomes above Rs 25,000 Information regarding these rates for the above mentioned categories is given in Appendices IV to VI Rates enforced in Assam, Bihar, and Rajasthan for 1959 60 are given in Appendix VII

In the absence of reliable statistical information, it is difficult to say how far the introduction of agricultural income-tax has helped to reduce inequities in the land-tax systems of States by mopping up the surplus incomes of large land-holders It is equally difficult to guage the economic effects of this measure in the rural sector

The fiscal results of this levy are, however, apparent It is true the receipts from this source have actually shown a downward trend in States where Zamindari interests have been abolished It is also quite likely that they will go down further with the implementation of measures for the fixation of ceilings and the liquidation of larger land holdings, yet the fact remains that the introduction of this tax has brought in substantial amounts to the State exchequers especially in areas like Assam, Madras, Mysore and Kerala where a very large portion of the total receipts is derived from plantations and where land reform measures are also not likely to materially affect the receipts from this source This will be clear from the table below

Receipts from agricultural income tax

(Lakhs of Rupees)

State	1950-51	1951 52	1952 53	1953 54	1954 55	1955 56	1956 57	1957 58	1958-59
Assam	79 (986)	91 (1,254)	108 (1,283)	93 (1,334)	87 (1,367)	177 (1,254)	230 (1,231)	224 (1,141)	299 (1,132)
Bihar	69 (7,626)	56 (7 647)	46 (7,667)	41 (9 070)	25 (9 237)	14 (7,121)	22 (6,266)	14 (7,000)	17 (7 000)
Kerala	30 (4,466)	70 (8,603)	85 (8 678)	81 (9 906)	142 (10,483)	157 (8 786)	130 (8,413)	175 (7,902)	168 (12,083)

State	1950-51	1951-52	1952-53	1953-54	1954-55	1955-56	1956-57	1957-58	1958-59
M. P. (Bhopal, V.P. and Sironj)	..	1 (236)	0·1 (256)	2 (1,008)	1 (617)	1 (545)	1 (566)	1 (476)	0·1 (226)
Madras . .	..	..	..	..	..	143 (1,604)	113 (2,515)	130 (2,064)	87 (49,767)
Mysore . .	0·1 (436)	3 (522)	14 (547)	21 (573)	19 (2,198)	31 (2,822)	29 (5,658)	24 (11,308)	103 (10,669)
Orissa . .	10 N.A.	13 (1,562)	7 (1,500)	5 (1,454)	3 (1,368)	2 (1,332)	2 (1,297)	3 (1,285)	3 (1334)
Rajasthan .	..	..	..	..	3 (2,156)	4 (2,357)	3 (2,189)	2 (2,416)	2 (2,416)
U. P. . .	138 (8,375)	100 (8,650)	71 (8,933)	54 (14,969)	62 (8,463)	71 (8,455)	62 (8,028)	53	61 (30,879*)
West Bengal .	63 (3,633)	64 (4,538)	61 (4,317)	72 (4,977)	126 (8,712)	154 (9,292)	166 (8,235)	116 (9,787)	88 (10,358)
Tripura . .	..	..	..	0.2 (266)	2 (282)	3 (282)	2 (282)	1 (313)	1 (313)

*Up to end of December 1959.

NOTE.—The figures in brackets show the total number of persons assessed to tax. For details please *see* Appendix VIII.

It is obvious that the receipts from this source have been seriously affected by the liquidation of larger interests in land in U.P., Bihar and Orissa. This is further corroborated by the fact that while the receipts have indicated a steady decline, the number of assessees has practically remained the same. It has even gone up in certain cases, while the receipts have actually declined. Obviously the shortfall in receipts is due to a change occurring in the status of the assessees.

Assuming that all the assessees irrespective of their status as an individual, Hindu undivided family, company, firm or association have an equal contribution to make to the State exchequer by way of payment of agricultural income-tax, the share of each assessee on this basis works out as under :

Agricultural income-tax collected per assessee

(Rupees)

State	1950-51	1951-52	1952-53	1953-54	1954-55	1955-56	1956-57	1957-58	1958-59	Average
Assam . .	8,025	7,279	8,435	6,982	6,338	14,100	18,669	19,641	26,442	12,879
Bihar . . .	904	738	603	453	276	192	346	199	236	439
Kerala . .	680	811	984	804	1,356	1,788	1,543	2,214	1,390	1,287
Madhya Pradesh .	..	377	51	210	203	195	231	177	332	185
Madras . .	..	..	..	..	..	8,909	4,505	6,283	174	4,968
Mysore . .	19	611	2,530	3,663	857	1,109	504	215	965	1,164
Orissa . .	N.A.	827	439	363	220	181	151	201	210	324
Rajasthan . .	..	..	..	..	162	160	128	78	87	123
Uttar Pradesh .	1,649	1,158	798	361	734	834	768	..	..	900
West Bengal .	1,743	1,401	1,411	1,447	1,449	1,655	2,015	1,189	852	1,470
Tripura . .	..	..	..	71	558	1,119	579	440	334	517

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are fewer assessees in these States also points to the existence of relatively larger estates or plantations with highly concentrated incomes

Costs of collection—The costs incurred in collecting agricultural income tax are also not high and form only an insignificant proportion of the total amount of tax collected in the various States, as will be seen from the Table below

Cost of collection as a proportion of total receipts

(Percentage)

State	1950-51	1951-52	1952 53	1953 54	1954 55	1955 56	1956 57	1957 58	1958 59	Average
Assam	0 6	0 8	0 8	1 0	1 1	0 6	0 5	0 6	0 4	0 7
Bihar	4 5	6 4	7 8	9 8	17 2	34 1	22 9	41 5	34 6	19 9
Kerala	N A	N A	0 5	1 0	0 7	0 8	1 2	1 7	4 6	1 5
Madras						1 3	2 5	2 0	5 5	2 8
Mysore	N A	5 1	1 7	1 1	0 9	0 7	N A	2 3	1 5	1 9
Orissa	19 4	18 4	45 0	58·6	117 3	164 7	219 1	183 2	183 1	112 1
Uttar Pradesh	1 8	2 6	3 8	4 8	4 7	3 6	4 2	5 3	6 4	4 1
West Bengal	4 5	5 2	5 6	4 9	3 6	3 4	3 2	4 7	6 5	4 6
Tripura				15 4	2 8	1 0	2 5	3 8	6 3	5 3

Cost of collection per assessee works out as under

Cost of collection per assessee

(Rupees)

State	1950-51	1951 52	1952 53	1953 54	1954 55	1955-56	1956 57	1957 58	1958-59	Average
Assam	50	60	66	70	70	85	88	111	96	77
Bihar	41	47	47	44	48	65	79	82	81	59
Kerala	N A	N A	5	9	10	15	18	37	64	23
Mysore		31	44	43	8	7	N A.	5	15	22
Orissa	N A	153	197	212	258	298	332	368	385	275
Uttar Pradesh	30	30	30	17	34	30	32		N A	29
West Bengal	79	73	79	71	52	56	65	56	56	65
Tridura				11	15	11	15	17	21	15

The costs of administering the tax are higher in States where per assessee receipts are also high. In Orissa, however, the costs of collection bear a rather unusual proportion to total receipts. This is attributed to the fact that the Orissa Agricultural Income-tax Act and the Orissa Sales Tax Act—are both administered by the same Department *i.e.* Commercial Taxes Department, and the accounts of the expenditure incurred by the Department in collecting the two taxes are not maintained separately. Nor has any scientific method for allocating the same to the two taxes been adopted by the State Government. The total collection charges are allocated on 50 : 50 basis to both these taxes with the result that any increase in the expenditure on collecting one tax reflects on the collection charges allocated to the other. Thus, in Orissa, the collection charges shown against agricultural income-tax have no relation to the total receipts from that tax. Similar [illegible] the case of Bihar and Kerala. In Bihar one and the same Department is administering seven taxes, including agricultural income-tax. For budgetary purposes the share of agricultural income-tax has been fixed at 2½% of total expenditure (prior to 1959-60 it was 25%). In Kerala the same Department is administering sales tax and agricultural income-tax.

The Taxation Enquiry Commission

The Taxation Enquiry Commission appointed in 1953 made a comprehensive study of the Indian tax system and its related problems. In its report submitted early in 1955, the Commission gave some very valuable suggestions for widening the base and range of taxation and re-adjusting the rate-structure. In regard to agricultural income-tax, the Commission observed that :—

(a) The rates of levy varied in the different States.

(b) Limits of taxable income too were not uniform between these States ; but it was easier to provide for a uniformity in the exemption limits rather than in the rates.

(c) Agricultural income-tax could not be a suitable substitute for land-revenue in the sense of constituting a roughly equivalent source of income for State Governments but could serve as an appropriate measure supplementary to land revenue itself.

The Commission reiterated the stand taken by the Indian Taxation Enquiry Committee that there was 'no justification for exempting agricultural incomes from payment of a tax' and recommended that :

(i) An agricultural income-tax on higher agricultural income should be adopted by all the States which have not yet done so. The extension of this tax will make the land-revenue systems in India more equitable and also help to reduce the anomaly that higher incomes from agriculture are exempt from the payment of any tax while corresponding non-agricultural incomes are not.

(ii) Rs. 3,000 is a reasonably adequate limit of exemption and all the State should adopt this limit.

(iii) The eventual aim should be to merge agricultural income with non agricultural income and levy one income-tax the proceeds being divisibl between the Union and each State in the proportion of the two types o income. As a first step in this direction, the Union should make it possibl for the States to levy a surcharge on agricultural income-tax with referenc to the non-agricultural income of the assessees. The States seemed t have a clear right to levy surcharge but if necessary and to put the matte beyond doubt, appropriate provision might be included in the Const tution.

(iv) For the purposes of the surcharge, an exemption limit may be set in respect of non agricultural income as well In fixing the rates of surcharge, care should be taken to ensure that the amount of agricultural income-tax payable together with the surcharge and non-agricultural income-tax does not exceed whichever of the following is lower

(a) agricultural income tax which would have been payable had the whole income—agricultural and non agricultural—been treated as agricultural, and

(b) non agricultural income-tax which would have been payable had the whole income—agricultural and non-agricultural—been treated as non-agricultural

In implementing the reommendations of the Commission, the progress that has been achieved is not sufficiently encouraging So far, only a few State Governments *e g*, Mysore and Kerala have consolidated and extended the applicability of agricultural income-tax Acts to the whole of the reorganised State

The Karnataka region of Bombay State since merged with Mysore was subjected to the levy of agricultural income-tax with the enforcement of the Mysore Agricultural Income tax Act, 1957 throughout the State Under the Madras Plantations Agricultural Income tax Act, 1955 the levy was confined to income from plantations The relevant Act in force in the Travancore Cochin region was extended to the Malabar area with effect from 1-4-1957, with the result that non plantation income has been brought within the tax net and the exemption limit reduced to Rs 3,000 in that area Recently, the exemption limit has, however, been raised to Rs 3,600 for the entire State of Kerala Madras amended the 1955 Act and widened the tax base by extending the applicability of the tax to non plantation incomes and to all holdings in excess of 12½ standard acres

o far been levied are Andhra
Vindhya Pradesh and Sironj
tegory belong all the Union
ndhra Pradesh repealed the
Hyderabad Agricultural Income tax Act, 1950 and in lieu thereof imposed a surcharge on land revenue In Bombay, the tax was levied only in Marathawada region till 1st April, 1958, the date from which the Hyderabad Agricultural Income-tax Act 1950 was repealed Rajasthan abolished the tax in 1960 and Uttar Pradesh has passed necessary legislation for repealing the Large Land Holdings Tax Act, 1957 The circumstances leading to the repeal of legislation in these States were largely brought about by the abolition of intermediaries and the consequent break up of large estates and the current programme for the early imposition of a ceiling on land holdings The disintegration of large estates resulted in the decline in the number of assessees and income assessed Hence Rajasthan has imposed a surcharge on land revenue as a revenue measure in substitution of agricultural income tax These are some of the difficulties which a number of State Governments have had to grapple with in the recent past and defer, on rethinking of all the questions involved, the introduction of agricultural income tax at this stage

There is no uniformity among the States insofar as the exemption limit is concerned While Assam, Bihar, West Bengal, Tripura and Bhopal & Vindhya Pradesh regions of Madhya Pradesh have Rs 3,000 as exemption limit, other States have fixed higher limits than that recommended by the Commission Thus, Kerala, Madras and Uttar Pradesh have Rs 3 600, Mysore Rs 3,500 and Orissa Rs 5,000 as exemption limits

Though the Commission suggested that preliminary steps should be taken for the eventual integration of agricultural and non agricultural incomes for purposes of taxation, no progress could be achieved as it was feared that even imposition

of surcharge on agricultural income-tax with reference to non-agricultural income would require amendment of the Constitution. In Assam, the State Government have recently raised the rates of agricultural income-tax on tea companies and the enhanced rates seem to compare well with the regular income-tax rates. Government of Kerala imposed from September 1, 1957 a surcharge of 5 per cent on agricultural income-tax payable each year. The fact, however, remains that no State Government have taken steps for the levy of a surcharge on the lines suggested by the Commission.

Changes in Legislative Frame-work Consequent on States Reorganisation

Due to territorial adjustments consequent on the Re-organisation of States on November 1, 1956, it became necessary either to extend or to integrate the various laws operating in the constituent parts or territories of the re-organised States, in the interest of uniformity within these States. Pending the extension or unification of these laws, the State Governments have allowed the existing Acts to continue in their former areas of operation. The position that has emerged as a result of these changes is indicated in Appendix IX.

Section (ii)(b). BETTERMENT LEVY

BETTERMENT LEVY

The principle of appropriating a part of the enchancement in value of a property resulting from the execution of specific works of improvement by State or public authorities, is not new to India In fact, it has been the practice with some States which were not 'permanently settled' to appropriate a part of the increment in value in the form either of an increase in land revenue assessment at the time of revision or by the imposition of special levies such as 'owners' rates' in U P or a 'canal advantage rate in Punjab The 'owners' rates' and the 'canal advantage rates', however, differed from the present day betterment charges in that the incidence was very much lower, and the charge was permanent The 'inclusion fee' levied some time back on projects in Madras for the privilege of inclusion in the guaranteed areas was also a fixed charge representing governments share of un earned value A system of betterment charges, in the sense in which it is under stood at present, may be said to have been in vogue in Mysore in 1888 when a sum of Rs 150 per acre was recovered from land owners by way of a betterment tax on lands brought under irrigation under the Irwin Canal System More recently the question of the levy of a betterment contribution has come into prominence in view of the many large irrigation projects being undertaken by the State Governments

Legislative enactments relating to the imposition of betterment levy have since been passed in Bihar, Bombay (pre bifurcated), Punjab (including Pepsu), Assam, Rajasthan, Madras, Mysore, Andhra Pradesh, Orissa, Himachal Pradesh, Kerala and Madhya Pradesh The matter has been under consideration in Jammu & Kashmir, U P, West Bengal and Delhi In the following Union Territories, the question does not arise owing to the absence of major river valley schemes or absence of a suitable case for levy

1 Andaman & Nicobar Islands 2 Laccadive, Amindivi & Minicoy Islands 3 Manipur 4 Tripura 5 Pondicherry and 6 N E F A A statement showing the yield from betterment levy during Second Plan period is attached (Appendix X) In Bombay, the Irrigation Act, 1879 was amended in 1950 to provide for the levy of a betterment charge and an irrigation cess Whereas the former was meant to appropriate part of the unearned increment in the value of lands, the latter was primarily meant to meet the working expenses of a canal In Punjab, the Punjab Betterment Charges and Acreage Rates Act, enacted in 1952, provides for the recovery of betterment charges and acreage rates on lands in any irrigation scheme which has come or comes into operation after 15th August, 1947 The acreage rates are intended to cover the expenditure incurred by the Government

1952, had been enacted Under the Act the Government could recover either a betterment contribution or inclusion fee on all lands benefited by any irrigation or drainage work completed after 1st January, 1943 This Act was later repealed by the Andhra Irrigation (Levy of Betterment Contribution) Andhra Pradesh Extension and Amendment Act, 1959 However, its application will continue in respect of works constructed between 15th August, 1947 and 11th January, 1960 (i e, date of commencement of the repealing Act) or in respect of works where not less than two thirds of the total cost was already incurred during the same period Assam has two Acts on the subject both enacted in 1953 Under the provisions of the Assam Embankment and Drainage Act, an annual water rate or betterment cess or premium is leviable on lands improved by Embankment and Drainage Schemes executed by the State Government
namely the Assam Betterment Fee and Mooring
is confined only to the Dibrugarh Sub division

provides for the levy of a betterment fee on areas benefited by the stone revetment constructed or to be constructed along the river Brahamputra in the Dibrugarh Sub-division for the protection of the town and its neighbourhood from erosion by the river. The Act also provides for the levy of a mooring-tax from any owner of a steamer or flat mooring at any place on the river within 400 yards of the revetment opposite the same. The Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959 empowers the State Government to levy and recover betterment contribution from the owner of any land benefited by an irrigation or flood protection work or part of such work completed after 15 August, 1951. In Rajasthan, the Rajasthan Lands Special Irrigation Charges Act, 1953 seeks to levy an acreage rate and a betterment charge in respect of all lands included in an irrigation scheme. A similar Act was enacted in P.E.P.S.U. in 1954. However, this Act has since been repealed and the Punjab Act extended to Pepsu area. In Madras, the Madras Irrigation (Levy of Betterment Contribution) Act was enacted in 1955. Under the provisions of the Act, betterment contributions are chargeable from lands benefited by the construction, expansion or alteration, on or after 1-1-47, of any work (including the installation of a pumping set) the cost of which exceeds Rs. 25,000. A similar legislation in Andhra provides for the levy of betterment contribution on lands benefited by works of improvement costing over Rs. 1 lakh and completed on or after 15-8-47. In Orissa, the legislative enactment gives power to the State Government to levy betterment charges in areas benefited by the construction of Hirakud Dam Project including the Delta Irrigation Scheme. In Himachal Pradesh, betterment charges are leviable under the Himachal Pradesh Minor Canals Act, 1955 (as amended) on lands benefited by a canal newly constructed remodelled, expanded or repaired at Government cost after 1-1-1952. In Saurashtra, the Saurashtra Irrigation Act, 1951 was amended in 1956 to provide for the levy of betterment charges on lands benefited by the construction of a new canal or the improvement or extension of an existing canal after 5-4-1948. Mysore recently replaced its former legislation on the subject by enacting the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957. The provisions of the new Act apply to the entire area of the reorganised Mysore State.

Basis and Pitch of Assessment

Since 'betterment' in our legislative enactments refers to the increase in the value of land arising from the execution of specific public works connected with irrigation and drainage, such increase in the value should naturally form the basis or the main factor in the assessment of the levy. In the Acts of Bombay, Saurashtra, Andhra and Madras the increase in the value of land is the sole criterion in the assessment of the betterment levy. Under the Bombay Act "the increase in value of the land by the completion of the construction of a new canal or the improvement or extension of an existing canal", as ascertained in the prescribed manner, shall be the basis of assessment and betterment charges shall be one-half of such increase in value. Legislative enactments in Andhra Pradesh, Madras, Orissa and Hyderabad lay down that "increase in the capital value" of each class of land ascertained in the manner provided for in the Acts shall be the basis for the determination of the contribution. In other States, increase in value does not form the sole basis for assessing the levy. For instance, in Punjab, Pepsu and Rajasthan, it is provided that in the determination of the rate of betterment charges, regard shall be had to 'the type of irrigation' and 'the improvement in irrigation' also in addition to 'the extent of betterment accruing to the lands'. However, it is laid down in the Acts of all these States that the amount of the levy should not exceed one-half of the increase in the value of lands ascertained in the prescribed manner. Thus in these States also, though the increase in value does not constitute the sole basis for the assessment of the levy the pitch of assessment is still determined in terms of such an increase. In Assam, the total annual water rate, betterment cess or premium leviable under a scheme under the Assam Embankment and Drainage Act is not related to the increase in the value of lands but is limited to a maximum of six per cent per annum on the first cost of the said work plus the estimated yearly

cost of their maintenance and supervision The betterment fee leviable under the *Assam Betterment Fee and Mooring Tax (Dibrugarh) Act* is based on the annual valuation of property lying in a graded order in four belts along the stone revetment The same Act provides for the levy of a mooring tax at a flat rate of Re 1 per day for 100 tons or part of it of the capacity of the steamer or the flat moored In Himachal Pradesh, the quantum of the levy is determined after taking

not be on the profits or increased profits from the land irrigated by a project It may have some relation to the cost of the project but should be based mainly on the increase in the value of land as a result of the facilities provided by the Project Betterment levy cannot, however, be uniform in all cases, all the factors that contribute to the increase in values must be taken into consideration" A tabular summary indicating the basis of assessment of the levy in the different States is contained in Appendix XI

The determination of the levy involves (i) fixing of the base value on the basis of which the increase in value may be calculated, (ii) ascertaining the increase in value, and (iii) determination of the quantum of betterment to be taken by the government The base value should naturally relate to the value of land prior to the commencement of the work of improvement Where proposals for a project are known long before the actual commencement of the project, it is to be expected *that land will rise materially in value in anticipation of the proposed development* and in sc been realised by their own value' should be so fixed the betterment The Acts in Bombay, Saurashtra, Punjab, Pepsu, Himachal Pradesh and Rajasthan expressly empower the respective State Government to fix the dates with reference to which values of lands prior to the commencement of the work and after its completion, have to be ascertained or estimated for determining the extent of betterment

A very important step in the assessment of betterment levy is the mode of ascertaining the extent of betterment Since it is the special benefit accrued to the assessee in the form of the enhanced value of his lands that constitutes the justification, limit and measure of the levy, the efficiency and equity of the system of betterment levy depend on the degree to which the estimated increment in the value of lands approximates the actual benefit accrued to the assessee A forecast about future values of lands is always difficult Moreover, there are always numerous factors that determine the market values of lands and to isolate and prove that a part or whole of the betterment is due to a particular improvement is no easy task It is also necessary that the mode of estimating betterment be such that the scope for the subjective influences of the assessing authority is reduced to the minimum

Mention may be made here of the difficulty that arises when the basis of increase in the value of land is related to the period between the date of commencement of construction and the date of completion of the project Experience has shown that the ratio between the two rates prevailing on the two distant dates may be very much affected by pro- duce and consequent money values in tl land- ownership and farm tenancy may also d the difference between these values over a period of years may not always have a correct relationship to benefits derived from such lands

In all the States except Andhra and Madras, the mode of estimating the increase in the value is to prescribe by the rules In Bombay, the rules provide that the increase in value may be arrived at from an inquiry into the sale transactions

and rentals or failing this on the basis of the values of comparable irrigated lands in the tract. In Punjab, the rules provide that the value of the land shall be calculated at 30 times the 'net assets' as defined in the Land Revenue Act, 1887. The net assets will be calculated on the basis of owner's share being limited to one-third of the divisible produce. Under the Madras Act the lands benefited by the construction, expansion or alteration of any work are to be divided into suitable classes and the annual increase in the gross produce of each class estimated with reference to the average prices prevailing during the three years immediately preceding the completion of the work. Ten times the annual increase in the gross produce is deemed to be the increase in the capital value of each class of lands. The contribution payable to the Government is half the sum by which the said increase in the capital value exceeds the cost (estimated in the prescribed manner) of making the lands fit for advantageous irrigation. The Andhra Act provides that the lands benefited or capable of being benefited by the irrigation work shall be divided into several classes according to the nature and quality of soils, physical configuration and the extent of reclamation required to bring the lands to advantageous cultivation and the net additional income estimated in the prescribed manner for each class of lands. Twenty-five times the net additional income minus the expenses for making the lands fit for advantageous cultivation is deemed to be the increase in the capital value of each class of land and the amount of betterment contribution is not to exceed one-half of such increase. The manner of assessing the increase in value, provided for in the Andhra and Madras Act and the Punjab rules, appears to be more precise than that in Bombay. However, such computation of increase in capital value as a multiple of the net increase in annual value amounts to a change in the basis of assessment itself and the levy is then based ultimately not on the actual or likely increase in the capital value of land but on the increase in its annual value.

Even though the principle of betterment levy is generally accepted, such general acceptance naturally does not extend to the quantum of betterment that might be assumed by the State. What proportion of the betterment should be claimed by the Government is bound to be largely arbitrary. Insofar as the enhanced value is attributed to public expenditure, there cannot be any theoretical objection to the authority appropriating the entire betterment though practical considerations as well as the need to provide incentives to the landowners may prevent the government from claiming the whole. In most of the Acts the maximum proposed to be recovered as betterment levy is invariably fifty per cent of the enhanced value. In Bombay, Madras and Andhra the Governments' share is fixed at one-half of the increase in value. In the other States, however, only the upper limit is laid down and the actual amount is to be determined in the prescribed manner. In Punjab, Pepsu and Rajasthan it is to be determined having regard to (i) the type of irrigation, (ii) the improvement in irrigation, and (iii) the extent of betterment accruing to the lands but subject to the maximum limit of one-half of the increase in value. In Himachal Pradesh the quantum of betterment charges is not to exceed one-half of the cost of irrigation inclusive of interest charges for the period for which such charges are levied. In the Hyderabad Act it is provided that the contribution should not exceed one-half of the increase in the capital value of land. The water rate or betterment cess leviable under the Assam Embankment and Drainage Act is not to exceed 6 per cent per annum on the first cost of works adding thereto the cost of yearly maintenance and supervision. The range within which betterment charges are to be levied in Saurashtra is Rs. 82.50 per acre to Rs. 112.50 per acre.

Recovery of the Levy

As this is a capital levy, the fee would need to be realised from the beneficiaries either in a lump sum or in instalments normally over a period of ten years but not exceeding 15 years.

The recovery period is not generally allowed to spill over a longer period

However, the ease and speed with which the levy could be collected depends on the timing of its realisation, the method of collection *i e*, whether in lump sum or in instalments and on the mode of payment *i e*, whether in cash or in any other form It is easy to collect the levy after the landowners had realised at least a substantial portion of the benefits from the work. Not only will they be psychologically willing to pay since the extent of betterment will have been proved by then but also because their ability to pay too will be greater If the levy is to be claimed only after the extent of betterment is proved and substantially realised, the collections will be much slower and the Governments cannot expect any immediate financial relief The Acts in Assam, Bombay, Punjab, Pepsu, Hyderabad, Mysore and Rajasthan leave it to the State authorities to decide as to when the levy is to be collected The Acts of Andhra, Madras and Orissa, however, specify when collection of the levy should begin The Andhra Act provides that the contribution shall become payable only after the expiry of three years from the date of completion of the construction, expansion or alteration of the work Similar limit provided for in the Madras Act is 2 years The Orissa Act provides that the first instalment of the betterment charge shall be recoverable on the 15th April following the Kharif season in which water is supplied The table in Appendix XII gives the date from which the betterment levy becomes payable in the various States The provisions in the various States with regard to liability for payment of betterment levy have been briefly indicated in the Statement in Appendix XIII

In all the States, provision is made for payment of the levy in instalments In Bombay, Punjab, Pepsu, Himachal Pradesh and Rajasthan, the number of instalments is left to be determined by the Government In Madras, the Act provides for the payment of the levy in twenty annual instalments and in case the payment is made in a lump sum within two years from the date on which a landholder becomes liable for payment of the contribution, a rebate of 20 per cent is allowed In Andhra too, the number of instalments in which the levy can be paid is 20 but a rebate of 10 per cent is allowed if the total amount is paid in advance In Orissa, betterment charges can be paid in 16 annual instalments the amount of first two instalments being one-thirtieth of the charges each, and the rest being payable in 14 instalments of one-fifteenth of the charges each The Saurashtra Act permits the betterment charges to be paid in 15 annual instalments The rules in Bombay require the landowner to state the number of annual instalments not exceeding twenty, in which he could pay the charges According to the rules in Punjab, the owner can pay the charges in half yearly instalments spread over a number of years as decided by the Government, however, the maximum number of instalments should not exceed thirty All the States except Hyderabad provide for charging interest on the outstanding instalments at rates prescribed In Hyderabad the rules provide that the amount shall be paid in 15 instalments free of interest and a rebate of 10 per cent shall be allowed in case t' The betterment levy is t Mysore, Orissa Punjab enable the landholder to pay the betterment fees in the form of lands in lieu of the levy payable by him A statement showing the number of instalments allowed for the payment of the levy in the different States is in Appendix XIV.

Postponement of Recovery of Betterment Charges

Provision has been made in all the States for remission or suspension or postponement of the recovery of the levy The Acts in Punjab, Pepsu, Himachal Pradesh and Rajasthan provide for the postponement of recovery of betterment charges for such period as the Government thinks fit in case there has been a failure of crops in any area In Bombay the Government has the power to suspend

or remit the betterment charge or any of its instalments and interest. The Acts of Madras and Andhra provide that if in the opinion of the Government, the enforcement or strict enforcement of all or any of the provisions of the Act will cause hardship in any case or cases, the Government may, after setting out the grounds, exempt either permanently or for a specified period such case or cases from all or any of the provisions of the Act. The Orissa Act also provides for the remission or suspension of the betterment charges or its instalments in part or in full if there is a serious damage to crops or if lands become water-logged and salt-affected and therefore unculturable or if the lands have been removed from the irrigable command of the scheme or on the ground that agriculture has received a set-back on account of a serious fall in prices.

That the question of levying a betterment contribution has come into prominence in recent years cannot be denied. In fact the First Five Year Plan Report strongly recommended to State Governments the desirability of imposing betterment levy on all areas served by new irrigation projects. The Taxation Enquiry Commission which submitted its report in 1955 also pointed out that "while it is a sound principle to tax the unearned increment in land values, the imposition of such a levy would fulfil other desired objectives *e.g.*, the stabilisation of land values and what is even more important in the present context of increasing costs of construction, provide additional resources to Government to liquidate at least a part of the capital cost of the projects". The Commission made the following recommendations in regard to betterment levy :—

(a) The quantum of the levy should be fixed at a maximum of 50 per cent of the increase in value of land.

(b) Its recovery should be spread over a reasonably long period.

(c) It would be advisable for all States to provide specific relief in times of steep fall in prices by way of postponement of instalments. In the event of a sustained and substantial rise in prices, there is need for upward revision.

(d) The tax cannot be imposed on certain type of minor work like wells, tanks, etc. There is, however, justification for an additional levy on tube-wells and some of the large schemes in this class. Even here, an appropriate method of recovery is to make a small increase in the water rate.

The Second Plan also makes a specific reference to the need or desirability of betterment levy. The Plan recommends that "Legislation should be passed immediately in States where this has not been done and necessary steps taken to commence realisation as soon as possible". In regard to tube-wells and other minor irrigation works, the Plan states that it is equitable to include such works in the scope of legislation and charge betterment contribution from persons benefited therefrom.

Though legislative enactments for the levy of betterment contribution were passed in most of the States quite some time back, the work of actual collection of the levy has not yet started owing to certain procedural difficulties. In some States, even the legislative process is taking an unduly long time *e.g.*, in U.P. and West Bengal while in others *e.g.*, Orissa the scope of the present legislation is not comprehensive.

Appendix I

RATES OF DEPRECIATION OF CAPITAL ASSETS

(Expressed as percentage of the written down value or prime cost)

Sl. No.	Classification of machinery, plant, furniture or other capital assets	Assam	Bihar	West Bengal	Mysore	Orissa	Vindhya Pradesh	Hyderabad	Kerala
1	2	3	4	5	6	7	8	9	10
1	Kachcha buildings or third class buildings of inferior construction.	7½	12½	12½	7½	12½	12½	12½	7½†
2	Pucca buildings or substantial buildings of selected materials.	12½	2½	2½	2½	2½	2½	2½	2½†
3	Kachcha and pucca mixed or buildings of less substantial construction.	5	5	5	5	5	5	5	5*
4	Purely temporary structures (such as wooden structures) . . .		15	20	10	20		20	*
5	Fencing (barbed wire with iron posts)	5	5	5	10	5	5	5	5
6	Pucca roads		5		-	5	5	5	
7	Kachcha roads		15			15	15	16⅔	
8	Tanks		5	5	5	5	5	5	
9	Pucca wells . .	2½	2½	2½ (and 3½ for pucca irrigation wells)	5	2½	2½	2½	

APPENDIX I—*contd.*

1	2	3	4	5	6	7	8	9	10
10	Kachcha wells	..	$33\frac{1}{2}$	$33\frac{1}{2}$	..	$33\frac{1}{2}$	$33\frac{1}{3}$	$33\frac{1}{3}$	..
11	Tube-wells	$6\frac{1}{4}$	$6\frac{1}{4}$	10	10	10	3	$6\frac{1}{4}$	..
12	Irrigation channels (Kachcha)	..	20	20	..	20	20	20	..
13	Irrigation channels (Pucca)	..	10	10	10	10	10	10	..
14	Berbecues-pucca including washing channels and vats.	..	..	..	5	..	..	..	..
15	Bullock-drawn wooden and leather implements.	25	25	25	25	25	25	25	20
16	Country carts	15	15	15	10	15	15	$16\frac{2}{3}$	15
17	Dunlop carts (*i.e.* Factory-made carts of iron material with rubber-tyred wheels).	10	10	10	10	10	10	10	10
18	Small hand implements	10	25	..	..	25	25	25	25
19	Bullock drawn iron implements	10	10	10	10	10	10	10	10
20	*Tractor and oil engines*	$12\frac{1}{2}$	$12\frac{1}{2}$	20	10	$12\frac{1}{2}$	12	25	$12\frac{1}{2}$
21	Steam engines	5	5	5	5	5	5	5	5
22	Tractor implements	..	$12\frac{1}{2}$	..	10	..	$12\frac{1}{2}$	$12\frac{1}{2}$	$12\frac{1}{2}$
23	Workshop tools	..	10	10	5	10	10	10	10
24	Weighing machines	5	5	5	5	5	$7\frac{1}{2}$	5	5
25	Fixed power machinery	..	$12\frac{1}{2}$	..	..	$12\frac{1}{2}$	$12\frac{1}{2}$	$12\frac{1}{2}$	$12\frac{1}{2}$
26	Power pumping machinery	$12\frac{1}{2}$	$12\frac{1}{2}$	$12\frac{1}{2}$	..	$12\frac{1}{2}$	$12\frac{1}{2}$	$12\frac{1}{2}$	$12\frac{1}{2}$

27	Furniture and fittings . . .				6				6
28	Indigenous sugar cane crushers (Kolhus & Belans) . .						18		
29	Lorries, motor cars, motor cycles or cycles				10				20
30	Livestock for cultivation and transporting the crop to market					.	12½		
31	Mud embankment of a Bandh or Bandhi						12½		
32	Pucca embankment of a Bandh or Bandhi						5		
33	Typewriters .								15
34	Batteries .				33⅓				20
35	Other electrical machinery				10				5 10
36	Hose pipes hand sprayer and power sprayers .				33⅓				10 (pipes only)
37	General for machinery, implements, constructions and furniture not specifically provided for above	5	5	5	10	5	5	5	

†Double these rates will be allowed for factory buildings excluding offices godowns officers and employees quarters

*No rate prescribed Renewal will be allowed as revenue expenditure

N B —For further references see p xl

APPENDIX I—*concld.*

NOTE.—Kerala has also specified the following rates of depreciation in addition to those shown in the Appendix I :

Machinery and Plant—		
(1) General rate		An extra allowance upto a maximum of 50 per cent of the normal allowance will be allowed by the Agricultural Income-tax Officer where a concern claims such allowance on account of double or multiple shift working and satisfies the Agricultural Income-tax Officer that the concern has actually worked double or multiple shifts. This extra allowance will be proportionate to the number of days during which double or multiple shifts are worked. For the purpose of granting this extra allowance, the normal number of working days throughout the year will be taken as 300 and if, for example, a concern has worked double or multiple shifts for 100 days, the extra allowance will be one-third of 50 per cent of the normal allowance for the whole year. This applies to all concerns whether the general rate or any special rate applies to them but does not apply to an item of machinery or plant specifically excepted by the letters "N. E. S. A." being shown against it. NOTE.—Letters "N.E.S.A." are a contraction of the expression "No extra shift allowance".
(2) Special rates to be applied to the whole of the machinery and plant used in the following concern.		The special rates specified hereinafter may be adopted at the option of the assessee for electrical machinery, air-conditioning machinery, locomotives, weighing machines, calculating machines, type-writers, neo-post franking machines, accounting machines, other office machinery, refrigeration plant, containers, etc. and motor vehicles used in these concerns.
Tea Factories	9% .	Replacements of rollers will be allowed as revenue expenditure.

In Madras the rates of depreciation shall be in accordance with the rates prescribed from time to time for the purpose of the Indian Income-tax Act, 1922.

Madras and Kerala provide for a further deduction at the rate of 10 per cent of the the cost of building erected or machinery or plant installed in respect of the year of erection or installation, as the case may be, after a specified period.

Appendix II

DEDUCTIONS FROM AGRICULTURAL INCOME DERIVED FROM RENT OR REVENUE

Assam	Bihar
(i) Land revenue or rent of the previous year	(i) Land revenue or rent of the previous year
(ii) Local rate(s)	(ii) Local rate or cess
(iii) Chowkidari rate	(iii) Chowkidari rate
(iv) Collection charges at 10 per cent of the total rents collected	(iv) Collection charges at 12½ per cent of the total rent collected
(v) Expenses incurred on the maintenance of any irrigation or protective work constructed for the benefit of the land	(v) Expenses incurred on the maintenance of any irrigation or protective work
(vi) Expenses incurred in respect of the current repair to any capital asset used in connection with the collection of rents	(vi) Expenses incurred on the maintenance of any capital asset purchased or constructed before 1 4 1948
(vii) Depreciation of any capital asset purchased or constructed after 1 4 1937	(vii) Depreciation of any capital asset purchased or constructed after 12 10 1938
(viii) Interest paid on any capital expenditure incurred after 1 4 1883	(viii) Interest paid on any capital expenditure incurred after 12 10 1938
(ix) Interest paid on loans taken under the Agriculturists, Loans Act 1884 and the Land Improvement Loans Act, 1883	(ix) Interest paid on loans taken under the Bihar and Orissa Natural Calamities Loans Act 1934
(x) Interest paid on any mortgage or any other kind of debt or capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived	(x) Interest paid on mortgage or any other kind of debt or capital charge (interest paid under viii x & xi below however, is not to exceed the interest allowed under the Bihar Money lenders (Regulation of Transactions Act, 1939)
(xi) Interest paid on such a property mortgaged before 1-1 1939	(xi) Interest paid on such a property mortgaged before 3 4 1938
(xii) Any *malikana*, or similar levy paid	(xii) Any *malikana* paid
(xiii) Such other deductions as may be prescribed by Rules under Sec 50	(xiii) Any sums paid under the Rules framed under the Bengal Irrigation Act, 1876

APPENDIX II—*Contd.*

Madras	Orissa
(i) Land revenue, local rates and cess & municipal taxes or rent of the previous year in respect of the land.	(i) Land revenue, local rates and cesses the water rate or water cess & municipal taxes or rent of the previous year.
(ii) Expenses incurred on the maintenance of any protective work constructed for the benefit of the land.	(ii) Chowkidari rate and the payments made under the *Khondmals* Laws Regulation or the *Angul* Laws Regulation.
(iii) Expenses incurred on the maintenance and repairs in respect of any capital asset.	(iii) Collection charges at a certain specified percentage of the total rent collected.
(iv) Depreciation of buildings, machinery, plant and furniture.	(iv) Expenses incurred on the maintenanace of any irrigation or protective work.
(v) Interest paid on any amount borrowed and actually spent on the land provided further that the interest allowed......shall be limited to 9 per cent on an amount equivalent to 25 per cent of the agricultural income from land.	(v) Expenses incurred on account of repairs to any capital asset used in connection with the collection of rent.
	(vi) Depreciation of any capital asset (purchased or constructed) after the commencement of the Act.
	(vii) Interest paid on any capital expenditure incurred (after the passing of the Act) for the benefit of land.
	(viii) Interest paid on mortgage or any kind of debt or capital charge.
	(ix) Interest paid on property mortgaged before 1-10-1946.
	(x) Such other deductions as may be prescribed.

APPENDIX II—*contd*

Vindhya Pradesh	West Bengal & Tripura
(i) Land revenue *barbast* or *den*, local rates and cesses and taxes to local authorities	(i) Land revenue or rent, local rate or cess including education cess
(ii) Collection charges on the first Rs 10,000=12 per cent on next Rs 90,000=11 percent Over Rs 100,000=10 percent	(ii) Cost of collection including the cost of maintenance of any katchar or other capital assets and any litigation expenses at 15 to 20 per cent of the total rent/revenue
(iii) Expenses incurred on the construction or maintenance of any irrigation or protective work	(iii) Expenses incurred on the maintenance of any irrigation or protective work or other capital asset
(iv) Interest paid on any mortgage or *other capital charge*	(iv) When rent derived is rent in kind the *costs incurred in performing any* process to render the produce fit to be taken to the market, in transporting the same to the market, and in maintaining in good repair agricultural implements or machinery and the upkeep of cattle
(v) Any *malikana* paid	(v) Depreciation in respect of any irrigation or protective work or other capital asset
(vi) Any sums paid under the provisions of the Northern India Canal and Drainage Act, 1873	(vi) Interest paid on loans taken under the L I L Act, 1883 or the Agriculturists' Loans Act, 1884
	(vii) Interest paid on mortgage or capital charge or on the capital borrowed and used to acquire, reclaim or improve land (interest paid, however, not to exceed the interest the assessee is liable to pay under Sec 30 of the Bengal Money lenders Act, 1940)
	(viii) A sum equal to 1/5 of the difference when the total amount of rent/revenue received by an assessee exceeds the total amount of rent/revenue accrued to him in the assessment made for each of the 3 financial years 1944-45 to 1946 47
	(ix) Any other expenditure of the assessee (not being in the nature of capital expenditure or personal expenditure) laid out wholly, for deriving such income

APPENDIX II—*contd.*

Hyderabad	Mysore
(i) Land revenue or rent, local cess or rate.	(i) Land revenue, local rates and cesses, municipal taxes, any excise duty or tax on agricultural produce or rent of the previous year.
(ii) Collection charges at 12½ per cent of the rent collected.	(ii) Expenses incurred on the maintanence of any irrigation or protective work.
(iii) Expenses incurred on the maintenance of any capital asset purchased or constructed before 1-4-1950.	(iii) Expenses incurred on the repairs of any capital asset.
(iv) Expenses incurred on the maintenance of any capital asset purchased or constructed before 1-4-1950.	(iv) Depreciation of buildings, machinery, plant and fencing materials, hose pipes and furniture.
(v) Depreciation of any capital asset.	(v) The amount by which the writter down value of a building, machinery or plant which has been sold, discarded or demolished, exceeds their sale or scrap value.
(vi) Interest paid on any capital expenditure incurred after 1-4-1950.	(vi) Interest paid on any amount borrowec and actually spent on the capita expenditure or on land. (Providec the interest allowed shall not exceec 12 per per cent annum).
(vii) Interest paid on mortgage or any other kind of debt or capital charge.	(vii) Interest paid on mortgage or othe capital charge, any debt, secured fo the purpose of acquiring the lan (Provided that the interest allowabl under (v) and (vi) above shall nc exceed 7½ per cent for secured loar and 12 per cent simple interest fc unsecured loans).
(viii) Interest paid on property mortgaged before 1-4-1950.	(viii) Any other expenditure (not being i the nature of capital expenditure).
(ix) Any *malikana* paid.	(ix) Such other deductions as may l prescribed.
	(x) Any expenses actually incurred in cc lection of agricultural income.
	(xi) Any expenses incurred on repairs respect of any capital asset used connection with the collection

APPENDIX II—*contd*

Rajasthan	Kerala
(i) Land revenue or rent, local cess or rate	(i) Land revenue or rent of the previous year due to the *Edavagai*, the *Sripandaravagai* or the *Sripadam*, *Jenmikaram*, *Thiruppuvaram*, local rates and cesses and municipal taxes
(ii) Collection charges at 15 to 20 per cent of the rent/revenue collected including the cost of maintenance of any *katcheri* or litigation expenses	(ii) Expenses incurred on the maintenance of any irrigation or protective work
(iii) Expenses incurred on the maintenance of any irrigation or protective work	(iii) Expenses incurred on repairs of any capital asset
(iv) Expenses incurred on the maintenance of any capital asset	(iv) Expenses incurred on the collection of agricultural income or in respect of any capital asset used in this connection
(v) Depreciation of any irrigation or protective work or other capital asset	(v) Depreciation of buildings, machinery, plant, and furniture
(vi) Sums paid as premia to effect an insurance against loss or damage to crops, land or cattle	(vi) Interest paid on agricultural loans taken and expended on land
(vii) Interest on mortgage or other charge or on any debt secured or not.	(vii) Interest paid on any amount borrowed and actually spent on reclaiming, improving or cultivating the property
(viii) When rent derived is rent-in kind the costs incurred in performing any process to render the produce fit to be taken to the market, in transporting the same to the market and in maintaining in good repair agricultural implements or machinery or the upkeep of cattle	(viii) Interest on mortgage or other capital charge or on any debt secured or not.
(ix) Any other expenditure (not being in the nature of capital or personal expenditure)	(ix) Interest on any capital expenditure incurred
	(x) Any expenditure (not being in the nature of capital or personal expenditure)
	(xi) Such other deductions as may be prescribed

APPENDIX II—*concld.*

Bhopal	Uttar Pradesh
(i) Land revenue, rent, *abwab* and other cesses.	(i) The levy of the 'Holding-Tax' under the proviso of the U.P. Large Land-Holdings-Tax Act, 1957 is based on annual valuation of a holding rather than on the agricultural income of an assessee. For the purpose of assessment, the annual value of a land holding is deemed to be an amount equal to a certain multiple(12½) of the rent calculated at the sanctioned hereditary rates applicable to such holding.
(ii) Collection charges on first Rs. 10,000= 12 per cent, on next Rs. 90,000=11 per cent, over Rs. 1 lakh 10 per cent.	
(iii) Expenses incurred on the maintenance or construction of any irrigation, productive or protective work.	

APPENDIX III

MACHINERY EMPLOYED FOR THE ADMINISTRATION OF AGRICULTURAL INCOME-TAX

Assam	Bihar	Madras	Orissa	Uttar Pradesh (in respect of Holding Tax)	West Bengal	Hyderabad	Mysore	Rajasthan	Kerala	Madhya Pradesh*		Tripura
										Bhopal	Vindhya Pradesh	
1	2	3	4	5	6	7	8	9	10	11	12	13
(a) Board of Agricultural Income tax	(a) The Boards of Agricultural Income-tax	(a) The Board of Revenue	(a) Commissioner of Agricultural Income tax	(a) The Board of Revenue	(a) The Commission er of Agricultural Income-tax West Bengal	(a) Commissioner of Agricultural Income tax	(a) The Commissioner of Agricultural Income-tax.	(a) The Commissioner and Additional Commissioner, if any of Agricultural Income-tax Rajasthan	(a) The Board of Revenue	(a) Deputy Collector Incharge of Sub Division	(a) Deputy Commissioner or a District Sales Tax or District Excise Officer	(a) The Commissioner of Agricultural Income-tax, Tripura
(b) Commissioner of Taxes	(b) Commissioner of Agricultural Income tax	b) Commissioner of Agricultural Income tax	(b) Deputy Commissioner of Agricultural Income tax	(b) Commissioner	(b) The Asstt Commission er Agricultural Income Tax West Bengal	(b) Deputy Commission er of Agricultural Income-tax	(b) Deputy Commission er of Agricultural Income-tax		(b) The Commission er of Agricultural Income-tax.	(b) Collector	(b) Deputy Collector	(b) The Assistant Commissioner Agricultural Income-tax Tripura
(c) Deputy Commissioner of Taxes	(c) Deputy Commission er of Agricultural Income-tax	(c) Assistant Commissioners of Agricultural Income-tax	(c) Assistant Commissioner of Agricultural Income tax	(c) Collector	(c) West Bengal Agricultural Income tax Officers	(c) Agricultural Income-tax Officers	(c) Agricultural Income-tax Officers	(b) Assistant Commission er of Agricultural Income-tax Rajasthan	(c) Assistant Commissioner of Agricultural Income tax.	(c) Official appointed under Proviso to Sub sec (1)	(c) Officer appointed under Proviso to Sub sec (1)	(c) Agricultural Income-tax Officers
(d) Assistant Commissioner of Taxes	(d) Assistant Commission er of Agricultural Income-tax.	(d) Agricultural Income tax Officers	(d) Agricultural Income tax Officers	(d) Sub-divisional Officer or Assistant Collector of the First Class				(c) Agricultural Income-tax Officers	(d) Agricultural Income tax Officers			
(e) Agricultural Income tax Officer	(e) Agricultural Income-tax Officer		(e) Assistant Agricultural Income tax Officers									
(f) Superintendent of Taxes												
(g) Additional Superintendent of Taxes												
(h) Inspectors of Taxes												
(i) Agricultural Income-tax Inspector												
(j) Sub-Inspectors of Taxes.												

*The details of the administrative machinery are as given in the
(i) Bhopal Act 9 of 1953 and (ii) U P Act 3 of 1949 as modified and extended to Vindhya Pradesh

APPENDIX IV

RATES OF AGRICULTURAL INCOME-TAX

(Per rupee)

	Mysore	Andhra Pradesh	Kerala	West Bengal	U.P.	Madras	Tripura	Orissa	Madhya Pradesh: Bhopal	Madhya Pradesh: Vindhya Pradesh
1	2	3	4	5	6	7	8	9	10	11
Limits of taxable income .	3,500	3,000	3,600	3,000	3,600	3,600	3,000	5,000	3,000	3,000
On the 1st 1500 . . .	Nil	Nil	Nil	Nil	On the 1st 1800 of annual valuation Nil Next 3,200—5 nP.	On the 1st 3600 Nil. On the next 1400—5 nP.	Nil	Nil	Nil	Nil
	nP.	Pies	nP.	nP.	nP.	nP.	nP.	nP.	As.	As.
On the next 1500 . . .	3	6	5	5	..	..	5	Nil.	1	1
On the next 2000 . . .	3	6	5	5	..	..	5	3	1	1
On the next 5000 . . .	6	12	11	8	10	15	8	6	1½	1½
On the next 5000 . . .	9	4	18	12	25	20	12	9	1½	1½
On the next 5000 . . .	12	..	..	19	25	25	19	16	3	3
On the next 5000 . . .	15	..	..	..	40	30	..	22	3	3
On the next 5000 . . .	18	..	..	..	40	..	..	29	..	..
On the next 5000 . . .	18	..	..	..	..	..	..	36	..	..
On the next 5000 . . .	21	..	..	..	..	..	..	44	..	..

APPENDIX IV—*contd*

	Mysore	Andhra Pradesh	Kerala	West Bengal	U P	Madras	Tr pura	Or ssa	Madhya Pradesh	
									Bhopal	Vindhya Pradesh
1	2	3	4	5	6	7	8	9	10	11
	nP	Pies	nP	nP	nP	nP	nP	nP	As	As
On the next 5000	21							50		
On the next 5000	21							50		
On the next 5000 .	25							50		
On the next 15000	25							62		
On the next 15000	25							69		
On the next 15000 .	25							72		
On the next 15000	.							75		
On the balance of income	40	36	25	25	60	45	25 nP	78	4	4
	L mit 7000 in the case of Hindu undivided family		Lim t 6000 in the case of Hindu undivided family etc	In case of a Co on the whole of income 40 nP in the Re		In case of Co max rate on the whole income	In case of a Co max rate on the whole in come		In case of a Co max rate on the whole in come	In case of a Co max rate on the whole income

NOTES —1 In Assam M Pradesh (V P & Bhopal) West Bengal and Tripura agricultural income tax shall in no case exceed half the amount by which the total agricultural income exceeds Rs 3000

2 Kerala . The agricultural income tax payable shall in no case exceed one half of the amount by which the total agricultural income exceeds Rs 3600 or Rs 6000 as the case may be A surcharge of 5 per cent is payable on total agricultural income tax and supertax

3 Madras . . . . No agricultural income tax is payable by a person who holds land not exceeding 12½ standard acres

4. Mysore	No agricultural income-tax is payable by a person who derives agricultural income from land not more than 50 acres of the eighth class of land or an extent equivalent thereto and the tax payable shall in no case exceed one half of the amount by which total agricultural income exceeds Rs. 3,500 or Rs. 7,000 as the case may be.	
5. Orissa	The agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs. 5,000.	
	In the case of every Hindu undivided family consisting of brothers only :—	
	(a) If the share of a brother is Rs. 5,000 or less	Two per cent.
	(b) If the share of a brother exceeds Rs. 5,000	The average rate applicable to the share of such brother if he were assessed as an individual.
6. Uttar Pradesh	Where the annual valuation does not exceed Rs. 5,000, the holding tax payable shall not exceed half the amount by which the annual valuation exceeds Rs. 3,600.	
7. West Bengal (& Tripura)	(i) In the case of every Hindu undivided family which consists of brothers only :—	
	(a) If the share of brother is Rs. 3,000 or less	Two naye paise
	(b) If the share of a brother exceeds Rs. 3000	The average rate applicable to the share of such brother if he were assessed as an individual.
	(ii) In the case of an individual or Hindu undivided family, whose only source of agricultural income is the land possessed and cultivated by such individual or members of family with or without hired labour no agricultural income-tax shall be payable by such individual or family on the agricultural income derived from such land if the area of such land does not exceed eighty standard bighas (80 bighas in the case of Tripura).	

APPENDIX V

RATES OF SUPER TAX

(Per rupee)

	Kerala	Madhya Pradesh	
		Bhopal	Vindhya Pradesh
On the 1st Rs 25 000	Nil	Nil	Nil
Next Rs 5 000	12 nP	1 anna	1 anna
Ditto	12 nP	1 anna	1 anna
Ditto	12 nP	1¼ as	1½ as
Ditto	16 nP	1¼ as	1½ as
Ditto	16 nP	2 as	2 as
Ditto	16 nP	2 as	2 as
Ditto	22 nP	2½ as	2½ as
Ditto	22 nP	2½ as	2½ as
Ditto	22 nP	3 as	3 as
Ditto	28 nP	3 as	3 as
Ditto	28 nP	3½ as	3¼ as
Ditto	28 nP	3½ as	3½ as
Ditto	34 nP	3½ as	4 as
Ditto	34 nP	4 as	4 as
Ditto	34 nP	4 as	4 as
Ditto		4 as	4½ as
Ditto		4½ as	4½ as
Ditto		4½ as	4½ as
Ditto		4½ as	5 as
Ditto		5 as	5 as
Ditto		5 as	5 as
Ditto		5 as	5 as
Ditto		5 as	5 as
Ditto		5 as	5 as
Ditto		5 as	
On the balance of total income	34 nP	5½ as	5¼ as
Company—			
First 1 lakh	12 nP	1 anna	1 anna
Next 2 lakhs	19 nP	1 anna	1 anna
Next 7 lakhs	25 nP	1 anna	1 anna
Balance	31 nP	1 anna	1 anna
Co operative Society—			
First Rs 25 000		Nil	Nil
Balance		1 anna	1 anna

APPENDIX VI

LUMP-SUM RATES FOR COMPOSITION OF AGRICULTURAL INCOME-TAX

1. *Madras* . . Any person who holds land not exceeding four times the exempted extent may apply to the prescribed officer for permission to compound the agricultural income-tax payable at the following rates :—

Extent of land	*Rate per standard acre*
On the first 12½ standard acres . .	Nil
On the next 7½ standard acres . .	4·50
On the next 10 standard acres . .	7·50
On the next 10 standard acres . .	10·00
On the next 10 standard acres . .	15·00

2. *Mysore* . . Any person who derives agricultural income from land not exceeding one hundred and fifty acres in extent of the eighth class of land or extent equivalent thereto may apply to the prescribed officer, for permission to compound the agricultural income tax payable, at the rate of Rs. 2 per acre of eighth class of land.

3. *Kerala* . . Any assessee other than a company may apply to the Agricultural Income-tax Officer to compound the agricultural income-tax payable by him for the financial year commencing on the 1st April, 1960 or any subsequent financial year, if his total agricultural income for the previous year does not exceed five thousand rupees.

4. *Rajasthan* . . Any person holding land not exceeding 120 acres of irrigated land or 360 acres of unirrigated land may apply to the Agricultural Income-tax Officers for permission to compound the agricultural income-tax payable by him at the following rates :

(i) Irrigated land—

Extent of lands	*Rate per acre* (Rs. nP.)
Up to 50 acres	1.00
Above 50 acres but not exceeding 60 acres	1.25
,, 60 ,, ,, ,, ,, 70 ,,	1.50
,, 70 ,, ,, ,, ,, 80 ,,	2.00
,, 80 ,, ,, ,, ,, 90 ,,	2.50
,, 90 ,, ,, ,, ,, 100 ,,	3.00
,, 100 ,, ,, ,, ,, 110 ,,	3.50
,, 110 ,, ,, ,, ,, 120 ,,	4.00

(ii) Unirrigated land—

When a person holds land unirrigated or partly irrigated and partly unirrigated, three acres of such unirrigated land shall be deemed to be equal to one acre of irrigated land and rates shall be calculated accordingly.

APPENDIX VII

RATES OF INCOME-TAX AND SUPER-TAX IN THE STATES OF ASSAM, BIHAR AND RAJASTHAN

	Assam	Bihar	Rajasthan	Remarks
Limits of taxable income	Rs 3,000	Rs 3,000	Rs 4,000*	*In the case of an individual or Hindu undivided family whose only source of agricultural income is the land possessed and cultivated by the individual or family with or without the help of hired labourers no agricultural income-tax shall be payable if the cultivated area of such land does not exceed 40 acres of irrigated land or 120 acres of unirrigated land
Income-tax				
On the first Rs 1,500	Nil	Nil	Nil	
On the next Rs 3,500	4 nP in the Re	5 nP in the Re	4 nP in the Re	
On the next Rs 2 500	8 nP in the Re	11 nP in the Re	9 nP in the Re	
On the next Rs 2,500	12 nP in the Re	11 nP in the Re	9 nP in the Re	
On the next Rs 2,500	15 nP in the Re	16 nP in the Re	9 nP in the Re	
On the next Rs 2,500	19 nP in the Re	16 nP in the Re	9 nP in the Re	
On the next Rs 5,000	24 nP in the Re	22 nP in the Re	19 nP in the Re	
On the next Rs 5 000	30 nP in the Re		19 nP in the Re	
On the next Rs 25,000	30 nP in the Re			
On the next Rs 50,000	34 nP in the Re			
On the balance of total income	38 nP in the Re	25 nP in the Re	25 nP in the Re	
In the case of a company				
(i) the total income of which does not exceed Rs 1,00,000	34 nP in the Re on the whole of the total income		25 nP on the whole of the income	

APPENDIX VII—*concld.*

	Assam	Bihar	Rajasthan	Remarks
(*ii*) the *total income* of which exceeds Rs. 1,00,000.	38 nP. in the Re.			
In the case of every Hindu undivided family .	(*i*) If the share of a brother exceeds Rs. 6,000 such rates if he were assessed as an individual.	(*i*) If the share of a brother is Rs. 3,000 or less, 3nP. in the rupee.		
	(*ii*) If the share of a brother is Rs. 6,000 or less, the rate would be 2 nP. in the rupee.	(*ii*) If the share of a brother exceeds Rs. 3,000, such rate, if he were assessed as an individual.		
Super-tax				
On the first Rs. 25,000		Nil	Nil	
On the next Rs. 10,000		6 nP. in the rupee	6 nP. in the rupee	
On the next Rs. 10,000		9 nP. in the rupee	9 nP. in the rupee	
On the next Rs. 10,000		13 nP. in the rupee	12 nP. in the rupee	
On the next Rs. 10,000		16 nP. in the rupee	16 nP. in the rupee	
On the next Rs. 10,000		19 nP. in the rupee	19 nP. in the rupee	
On the next Rs. 15,000		22 nP. in the rupee	22 nP. in the rupee	

On the next Rs. 15,000 . . .		25 nP. in the rupee	25 nP. in the rupee
On the next Rs 15,000 . . .		28 nP. in the rupee	28 nP in the rupee
On the next Rs. 30,000		31 nP in the rupee	32 nP in the rupee
On the balance of total income . . .		33 nP. in the rupee	35 nP. in the rupee
In the case of a co-operative society :—			
(i) On the first Rs. 25,000.	Nil		
(ii) On the balance of total income.	6 nP. in the rupee		
In the case of every company —			
On the whole of total income.	6 nP. in the rupee.		

NOTE —In Assam and Rajasthan the rates are subject to the condition that the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs 3,000

APPENDIX VIII

RECEIPTS FROM AGRICULTURAL INCOME-TAX, COST OF COLLECTION AND NUMBER OF ASSESSEES

Year	Andhra Pradesh@	Assam	Bihar	Kerala[1]	Madhya Pradesh[2]	Madras	Maharashtra[3]	Mysore[4]	Orissa	Rajasthan[5]	Uttar Pradesh	West Bengal	Tripura
1	2	3	4	5	6	7	8	9	10	11	12	13	14
Net Receipts (*Rs. in thousands*)—													
1950-51	19	79,13	68,91	30,38	..	..	29	8	9,93	..	1,38,14	63,31	..
1951-52	12,02	91,28	56,45	69,75	89	..	46	3,19	12,91	..	1,00,19	63,56	..
1952-53	2,05	1,08,23	46,22	85,41	13	..	32	13,84	6,58	..	71,29	61,22	..
1953-54	2,26	93,14	41,07	80,66	2,12	..	63	20,99	5,27	..	53,98	72,04	19
1954-55	2,37	86,63	25,46	1,42,11	1,25	..	42	18,84	3,00	3,50	62,09	1,26,21	1,57
1955-56	81	1,76,81	13,66	1,57,13	1,06	1,42,89	58	31,30	2,41	3,77	70,53	1,53,77	3,16
1956-57	80	2,29,82	21,67	1,29,82	1,31	1,13,30	15	28,53	1,96	2,80	61,62	1,65,91	1,63
1957-58	N.A.	2,24,11	13,90	1,74,91	84	1,29,67	25	24,31	2,58	1,88	52,56	1,16,36	1,38
1958-59	29	2,99,32	16,50	1,67,90	8	86,55	47	1,02,94	2,81	2,10	60,60	88,33	1,05
1959-60	99	2,56,78	25,59	1,97,22	1,02	1,53,49	N.A.	88,62	2,79	3,17	88,82	74,64	77
1960-61 R.E.	2,36	2,27,21	20,16	2,20,00	1,65	1,37,00	30	86,36	2,91	2,70	82,00	68,06	N.A.
1961-62 B.E.	1,11	2,34,51	21,16	2,27,00	..	1,37,00	5	81,00	2,91	6,40	87,00	68,06	N.A.

Cost of Collection (Rs. in thousands)—													
1950-51	.	49	311	N A.	.	.	21	.	193	..	251	286	..
1951-52	..	76	363	N A	..	..	21	16	238		262	329	..
1952-53	22	85	362	43	..	.	21	24	296	.	268	343	2
1953-54	55	94	402	91	..	.	21	25	309	.	259	355	3
1954-55	52	95	439	104	.	.	21	16	352	.	291	452	4
1955-56	51	107	466	133	..	182	21	21	397	..	256	516	3
1956-57	..	109	496	153	.	278		30	430		258	534	4
1957-58	..	126	577	294	9	257		56	473		279	552	5
1958-59	..	108	571	775	17	485		158	514		386	578	7
1959 60	19	99	62	10,95	23	1121		208	557		452	586	N.A.
1960 61 R E	49	107	71	7,81	25	990		215	645		423	605	N A.
1961-62 B E.	17	100	72	7,98	26	956		232	722		329	635	N A.
Number of Assessees													
1950-51	291	986	7,626	4,466		.	312	436	N A.		8,375	3,633	.
1951-52	392	1,254	7,647	8,603	236		315	522	1,562	..	8,650	4,538	..
1952-53	337	1,283	7,667	8,678	256		327	547	1,500		8,933	4,317	.
'953-54	351	1,334	9,070	9,906	1,008	..	330	573	1,454	.	14,969	4,977	266

APPENDIX VIII—*contd.*

1	2	3	4	5	6	7	8	9	10	11	12	13	14
1954-55 . . .	251	1,367	9,237	10,483	617	..	330	2,198	1,368	2,156	8,463	8,712	282
1955-56 . . .	187	1,254	7,121	8,786	545	1,604	334	2,822	1,332	2,357	8,455	9,292	282
1956-57 . . .	156	1,231	6,266	8,413	566	2,515	334	5,658	1,297	2,189	8,028	8,235	282
1957-58 . . .	..	1,141	7,000	7,902	476	2,064	..	11,308	1,285	2,416	..	9,787	313
1958-59 . . .	..	1,132	7,000	12,083	226	49,767	..	10,669	1,334	2,416	30,879†	10,358	313

@Figures are for Telengana region.

†Up to 31st December, 1959.

1—Upto 1956-57 figures are for old Travancore-Cochin State.

2—Vindhya Pradesh, Bhopal and Sironj regions. No provision has been made for the year 1961-62 as the Bhopal Act has been declared *ultra vires* of the Constitution.

3—Marathwada region. Figures of receipts and cost of collection for the years upto 1955-56 are provisional. For 1958-59 revised estimate has been given. Since 1956-57 cost of collection is nil as the work was being done by the Sales Tax Department.

4—Cost of collection figures upto 1955-56 are for Coorg.

5—Cost of collection is shown as nil as the expenditure incurred used to be included under the General Head of Excise and Taxation.

N.A.—Not available.

Appendix IX

AGRICULTURAL INCOME-TAX IN THE RE-ORGANISED SET-UP

1. *Andhra Pradesh* . Agricultural income tax was not in force in areas of the former State of Andhra In territories of the former Hyderabad State (now transferred to Andhra Pradesh), however, this tax was being collected under the provisions of the Hyderabad Agricultural Income tax Act, 1950 The Act has, however, been recently repealed The Madras Agricultural Income-tax Act, 1955 is in force in the areas transferred from Madras State to Andhra Pradesh under the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959

2. *Bombay* . . The tax was being collected only in the territories of the former Hyderabad State now transferred to Bombay (*i e* Marathwada Region), under the provisions of the Hyderabad Act referred to above

3 *Kerala* . . The re-organised State of Kerala consists of the former State of Travancore Cochin (minus some taluks in the South) and Malabar district and Kasargod taluk of the South Kanara district of pre re-organised Madras The Agricultural Income tax-Act, as amended upto date, applies to the whole of the re organised State of Kerala

4. *Madhya Pradesh* Before re-organisation, Bhopal and Vindhya Pradesh had their own Acts on agricultural income-tax which continued to be in force in these areas after their transfer to Madhya Pradesh Likewise in the Sironj sub-division of Kotah district of Rajasthan, now transferred to this State, the provisions of the Rajasthan Agricultural Income tax Act 1953 apply Rates of tax and limits of taxable income are not uniform in the above mentioned areas The areas of the former States of Madhya Bharat and Madhya Pradesh did not have this tax before re-organisation

5 *Madras* . . The re-organised State of Madras consists of the former Madras State excluding areas transferred to Mysore and Kerala plus five taluks of the former State of Travancore-Cochin In areas of the former Madras State, the Madras Agricultural Income tax Act, 1955 is in force whereas in parts of Travancore-Cochin transferred to this State, the provisions of the Travancore Cochin Agricultural Income tax Act, 1950 are applicable Rates of tax differ in the two areas The Madras Act has been extended to the territories transferred to this State from Andhra Pradesh under the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959

6. *Mysore* . . The Mysore Agricultural Income-tax Act, 1955 and the Coorg *Agricultural Income-tax Act, 1951 in force in the respective* areas of these States before re organisation, continued to operate there till 30-9-1957 Likewise in parts of Hyderabad and Madras transferred to this State, the provisions of the Hyderabad Agricultural Income tax Act, 1950 and the Madras Agricultural Income-tax Act, 1955 respectively, applied until that date From 1-10-1957 however, the State Government has brought out a consolidated legislation on the subject applicable to all the areas of the State

7. *Rajasthan* . . Before re-organisation, Rajasthan had its own Act on the subject In Ajmer, parts of Bombay and Madhya Bharat transferred to this State, the tax was enforced with effect from 1-9 1957 The State Government have abolished the tax as from 1-4-1960

8 *West Bengal* . . Under the terms of the Bihar and West Bengal (Transfer of Terri-

APPENDIX X

YIELD FROM BETTERMENT LEVY IN STATES, 1956—61

(Rupees in crores)

Name of State	Plan target 1956—61	Yield during 1956-57	1957-58	1958-59	1959-60	1960-61 (RE)	1956—61	1960-62 (BE)
1	2	3	4	5	6	7	8	9
1. Andhra Pradesh	0·4	..	0.09	..	..	..	0·09	..
2. Assam	0·7	..	..	..	..	..	..	..
3. Bihar	0·3	..	..	..	..	..	..	..
4. Bombay	1·5	..	neg.	0.01	neg.	..	0.01	..
5. Jammu & Kashmir	..	..	..	..	..	..	..	..
6. Kerala	0·5	..	..	..	neg.	0.01	0.01	0.01
7. Madhya Pradesh	1·0	..	..	..	..	..	..	N.A.
8. Madras	1·5	..	..	..	..	..	..	..
9. Mysore	0·5	..	..	..	..	0.04	0.04	0.04
10. Orissa	1·6	..	..	..	..	..	..	..
11. Punjab	21·7	..	..	0.02	0.10	0.81	0.93	1.17
12. Rajasthan	7·1	..	..	..	neg.	0.22	0.22	0.15
13. Uttar Pradesh	3·0	..	..	..	..	..	..	..
14. West Bengal	7·0	..	..	..	..	..	..	..
TOTAL	46·8(*)	..	0.09	0·03	0·10	1·08	1·30	1.37

(*) Following amounts are not available for State Plan :—

Orissa	1·6
Punjab	16·7
Rajasthan	5·8
West Bengal	7·0
	31·1

neg.—negligible.

N. A.—not available.

Appendix XI

BASIS FOR BETTERMENT LEVY

The basis for evaluating the quantum of betterment levy proposed to be recovered from the beneficiaries by the Government is a vital point and differs in different States. The basis of betterment levy adopted by different States is summarised below —

State	*The basis of assessment of betterment levy in the different States*
(i) *Andhra Pradesh*	(a) Increased value of land equated to 25 times the net additional income minus expenses incurred
	(b) Increase in value of land on the basis of market rate of dry or wet land in the area or its vicinity (Telengana)
(ii) *Assam* . .	(a) Degree of benefits conferred on lands, proximity of the property to the flood protection works, object is to recover the initial cost of scheme in full or in part
	(b) In respect of flood protection schemes, the area benefited is proposed to be split into different parallel belts A, B, C & D depending on their distance from the protection works. The quantum of flood cess proposed is as follows

Belt	*Quantum*
A	Not exceeding 5% of the value of the property
B	Not exceeding 4% of the value of the property
C	Not exceeding 3% of the value of the property
D .	Not exceeding 2% of the value of the property

(iii) *Bihar* . . The following rates of betterment levy are specified in the Act

(a) in case of an irrigation work, not being a storage dam or reservoir, where the flow of water is not perennial,	Rs 75 per acre
(b) in case of an irrigation work, not being a storage dam or reservoir, where the flow of water is perennial,	Rs 105 per acre.
(c) in case of a storage dam or reservoir,	Rs 120 per acre
(d) in case of a flood protection work, where the land benefited is not situated within an urban area, and	Rs 50 per acre.
(e) in case of a flood protection work, where the land or building benefited is situated within an urban area	Rs 200 per acre or 25% of its annual value

Provided that where lands or buildings benefited from an irrigation work or flood protection work i.e., within the local limits of the districts of Ranchi, Hazaribag, Palamau, Singhbhum or Santal Parganas the rate of betterment contribution shall be four fifths of the rates mentioned above

APPENDIX XI—*contd.*

State	*The basis of assessment of betterment levy in the different States*
(iv) *Bombay* . .	Increase in capital value of land on the completion date over that on the construction date (or commencement of work). (Unification of laws in different regions has to be done).
(v) *Kerala* . .	The annual increase in the gross produce of each class of land which will be estimated with reference to the average of prices prevailing during the five years immediately preceding the date of such estimate. Twenty times the annual increase in the gross produce shall be deemed to be the increase in the capital value of land.
(vi) *Madras* . .	Increase in capital value of land equated to 10 times the annual increase in gross produce based on the average of prices prevailing during three years preceding commencement and three years after completion of the work.
(vii) *Mysore* . .	Increase in the capital value of land : according to rule making powers in fixing rates ; subject to a maximum of Rs. 500/- per acre.
(viii) *Orissa* .	Increase in capital value of land equated to ten times the annual increase in the gross produce based on the average of the price prevailing during 3 agricultural years immediately preceding the agricultural year in which water is first supplied for irrigation.
(ix) *Punjab* .	Increase in value of land with reference to such date prior to commencement of work and estimated value with reference to such other date after such completion ; provided (i) no betterment charges leviable where other charges are sufficient to cover the cost of the scheme and (ii) the amount of betterment charges recoverable will be limited to the difference between investment on the scheme and such part of it as may make it productive.
(x) *Rajasthan* .	Increase in capital value of land ; type of irrigation and extent of betterment accruing to land.
(xi) *Madhya Pradesh*	The rate of betterment fee is determined in accordance with the following formula :— $Z=\frac{X}{Y\times 100}\times\frac{3}{1}$ for the first five annual instalments. $=\frac{X}{Y\times 100}\times\frac{9}{2}$ for the next ten annual instalments, where (a) X=cost of construction, improvement or extension of canal, incurred during the period of five years next preceding the date of issue of the notification. (b) Y=acreage of area benefited by the project. (c) Z=rate of betterment charges per acre per year.
(xii) *Himachal Pradesh*	(a) the capital cost ; (b) increase in the value of land through irrigation facilities ; and (c) increase of agricultural produce due to irrigation facilities

APPENDIX XII

DATE OF ENFORCEMENT OF THE LEVY IN THE DIFFERENT STATES

States	*Date of effect*
(i) *Andhra Pradesh*	(i) No contribution until the expiry of 3 years from the date of completion of the work (ii) Telengana No contribution until the expiry of the period of Revenue concession which will not be less than 3 years from the date of the completion of the work
(ii) *Assam* . .	Will become payable from such date as may be specified
(iii) *Bihar* . .	Will become payable from such date as may be notified in the official Gazette
(iv) *Bombay* . .	Not defined in the Act, as will be specified in the award after enquiry
(v) *Kerala* .	On expiry of 2 years after the date of provision of irrigation facilities
(vi) *Madras* .	On expiry of 2 years after the date of completion of work
(vii) *Madhya Pradesh*	The Authorised Officer shall announce in his award "the date with effect from which the recovery of betterment contribution shall be commenced".
(viii) *Mysore* . .	Shall become payable on a written notice of demand issued by an authorised officer
(ix) *Orissa* . .	Shall be payable on 15th day of April of the year next after the one following the kharif season in which irrigation facilities are first provided, or two months after the date of the award, specifying among others, the date on which such betterment charges shall be leviable, whichever is later
(x) *Punjab* . .	Advance payment leviable with effect from kharif harvest of 1958-59
(xi) *Rajasthan*	Not specified in the Act
(xii) *Himachal Pradesh*	Recoverable only after the first crop from the land irrigated by canal or kuhl water is harvested

Appendix XIII

LEGISLATIVE PROVISIONS REGARDING LIABILITY FOR PAYMENT OF BETTERMENT LEVY

State	Name of legislation	Person liable to pay	Remarks
1	2	3	4
Andhra Pradesh	The Andhra Irrigation (Levy of Betterment Contribution) Act, 1955.	Owner including a ryot in an estate.	Ryot in *inam* other than in estate is not treated as owner for the purposes of the Act even though such a ryot in an *inam* village may be entitled to a ryotwari *Patta*.
			The owner is entitled to recover instalment of betterment contribution from the person other than a tenant who is in actual possession of land during the year.
Assam	The Assam Embankment and Drainage Act, 1953.	Not specified	Presumably, it is th owner and include proprietors, settlemen holders and inter mediate tenants.
	The Assam Betterment Fee and Mooring Tax (Dibrugarh) Act, 1953.	Owner	
Bihar	The Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959.	Owner including any person having interest in land.	
Bombay	(*i*) Former Bombay area :		
	The Bombay Irrigation Act, 1879; The Saurashtra Irrigation Act, 1951 and The Bombay Highways Act, 1955.	Owner of land.	
	(*ii*) Marathwada area:		
	The Hyderabad Irrigation (Betterment Contribution and Inclusion Fees) Act, 1952.	Owner of land	In case of *inam* la the *inamdars*.

APPENDIX XIII—*contd.*

1	2	3	4
Kerala . .	(i) Travancore-Cochin area .		
	The Travancore-Cochin Irrigation Act, 1956	Owner (land holder) including a Kanam tenant in Cochin area	In cases where enhancement of rent is not permitted either by law or under contract of tenancy, the tenant or the mortgagee shall be liable to pay the instalment of betterment contribution during the period of occupation or possession of the land.
	(ii) Malabar area :		
	The Madras Irrigation (Levy of Betterment Contribution) Act, 1955	Owner (landholder) including a Kanamdar or a Customary Verumpattamdar	
Madhya Pradesh	The Central Provinces Irrigation Act, 1931	Permanent holder of land	
Madras .	The Madras Irrigation (Levy of Betterment Contribution) Act, 1955	Land holder i e, the person liable to pay the public revenue due on the land In the case of land to which the Malabar Tenancy Act 1929 applies, the Kanamdar or the Customary Verumpattamdar	The owner would, however, be entitled to recover from the tenant the instalment of contribution in case the tenant is liable to deliver to the holder a share of the produce and the amount that can be recovered from such a tenant shall bear to the total amount of instalment the same proportion as the tenants' share of the produce bears to the total produce of the land
Mysore .	The Mysore Irrigation (Levy of Betterment Contribution) and Water Rate Act, 1957.	Landholder or holder of any land including walawargadar, Kayamgenindar, a permanent tenant or a mulgeni tenant in respect of any land in their possession in South Kanara District.	An owner signifies a person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with a right to possession.

APPENDIX XIII—*contd.*

1	2	3	4
Orissa . .	The Orissa Betterment Charges Act, 1955.	Occupancy tenant or service tenant.	In case such tenant pays produce rent a portion of the betterment charges equivalent to the proportion which the produce rent taken by the landlord bears to the total produce shall be recoverable from such landlord. In case of service tenant 25% of the betterment levy shall be recoverable from the person to whom the lands will revert on abolition of service. In case the land is leased by the occupancy or service tenants and the cultivating tenant has been protected against provisions in general or special law for the time being in force or any custom or practice or usage and part of the betterment levy in such proportion as the produce taken by such cultivating tenant bears to the total produce of the land shall be recoverable from him.
Punjab . .	The Punjab Betterment Charges and Acreage Rates Act, 1952.	Land Owner.	
Rajasthan . .	The Rajasthan Land Special Irrigation Charges Act, 1953.	Land holders and occupancy tenants.	
Himachal Pradesh	The Himachal Pradesh Minor Canals Act, 1955.	Owner or persons having interest in land.	

Appendix XIV

INSTALMENTS ALLOWED FOR PAYMENT OF THE LEVY IN THE DIFFERENT STATES

State	*Number of instalments*
(i) *Andhra Pradesh*	20 annual instalments
(ii) *Assam* .	Not specified.
(iii) *Bihar* .	In 15 equal annual instalments
(iv) *Bombay* .	Not specified in the Act, to be prescribed by rules
(v) *Kerala* .	20 equal annual instalments
(vi) *Madras* .	One lump sum or 20 annual instalments
(vii) *Madhya Pradesh*	Payable consecutively for 15 years
(viii) *Mysore*	One lump sum or such number of annual instalments, not exceeding 20
(ix) *Orissa* .	16 instalments first 2 instalments shall be each 1/30 of the amount, and the next 14 instalments, each 1/15 of the amount
(x) *Punjab* .	According to the Act, one or more instalments The rules under the Act prescribe (further) half yearly instalments spread over a number of years, the maximum number of instalments not exceeding 30
(xi) *Rajasthan* .	One or more instalments as may be prescribed
(xii) *Himachal Pradesh*	To be recovered in equal instalments as may be prescribed

THE HYDERABAD AGRICULTURAL INCOME-TAX ACT, 1950*

[ACT XIII-J OF 1950]

WHEREAS the Constitution of India precludes the continued levy by the Hyderabad State of the tax imposed by the Income tax Act, 1357 F on income including agricultural income as defined in that Act,

AND WHEREAS it is expedient to provide for the levy by the Hyderabad State of a tax on agricultural income as defined in the said Constitution,

IT is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1 (1) This Act may be called the Hyderabad Agricultural Income-tax Act, 1950 — Short title, extent nad commencement

(2) It extends to the whole of the Hyderabad State

(3) It shall be deemed to have come into force on the 1st day of April, 1950

2[1] In this Act, unless there is anything repugnant ir the subject or context,— Definition

(*a*) "Agricultural income" means—

(1) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in the Hyderabad State or subject to a local rate assessed and collected by officers of the State as such,

(2) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub clause (*ii*),

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue

*This Act has since been repealed by the Andhra Pradesh Land Revenue (Surcharge) Act, 1957 (Act No XX of 1957)

1. Hyderabad Act No 1 of 1954 provides "Section 2 shall be deemed to have come into force on the 1st day of April 1951, the rest of this Act shall come into force at once".

of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clause (*ii*) and (*iii*) of clause (2) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building;

(*b*) "Agricultural income-tax" means the tax payable under this Act ;

(*c*) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under sub-section (2) of section 18;

(*d*) "Agricultural year" means the year commencing on the first day of June ;

(*e*) "Assessee" means a person by whom agricultural income-tax is payable ;

(*f*) "Commissioner" means a person appointed to be a Commissioner of Agricultural Income-tax under sub-section (2) of section 18 ;

(*g*) "Company" means a company incorporated or registered under any law for the time being in force in the Hyderabad State or elsewhere and includes any foreign association whether incorporated or not which the Government may, by general or special order, declare to be a company for the purposes of this Act;

(*h*) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Agricultural Income-tax under sub-section (2) of section 18;

(*i*) "Firm" has the same meaning as in the Hyderabad Partnership Act, 1351 F.;

(*j*) "Landlord" means a landlord who leases his lands to a tenant ;

(*k*) "Person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu family, firm or company ;

(*l*) "Prescribed" means prescribed by rules made under this Act ,

(*m*) "Previous year" means—

(*i*) in relation to the assessment for the financial year opening on the 1st day of April, 1950, the period from the day following the last day of the assessee's previous year as determined under the Income tax Act, 1357 F in relation to the Fasli year 1359 F to the 31st day of May 1950, both days inclusive ,

(*ii*) in relation to the assessment for every subsequent financial year, the agricultural year, the last day of which falls within the financial year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said financial year in respect of a period of twelve months ending on any date other than the last day of an agricultural year, then, at the option of the assessee, the twelve months ending on the day on which his accounts have been so made up

Provided that where an assessee has once decided in any year that in his case the term 'previous year' shall be taken as a particular agricultural year or a period of twelve months, ending on a particular date he shall not in future be entitled to vary in his case the meaning of the term 'previous year' except with the consent of the Agricultural Income-tax Officer and upon such conditions as the Agricultural Income tax Officer may think fit

(*n*) "Principal Officer" used with reference to a company or any other association means—

(*i*) the secretary, treasurer, manager or agent of the company or association, or

(*ii*) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof ,

(*o*) "Received" used with reference to the receipt of agricultural income by a person shall include—

(1) receipt by an agent or servant on behalf of a principal or master respectively ,

(2) receipt by other persons which are deemed to be his receipts under the provisions of this Act, and shall also include receipts of agricultural income by way of adjustment of accounts with any other person,

(*p*) "Schedule" means a schedule appended to this Act ; and

(q) "Total agricultural income" means the aggregate of the amounts of agricultural income of the different classes specified in sections 6 and 7 as determined respectively in the manner laid down in the said section :

Provided that where in any year under either head of agricultural income specified in sections 6 and 7 it is computed that the sum on which the agricultural income-tax is payable by the assessee is a negative quantity, the assessee shall be deemed to have sustained a loss under that head to that extent and such loss shall be set off against the sum computed under the other head of agricultural income as that on which agricultural income-tax is payable in the same year.

Chapter II

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of agricultural income-tax.

3. For the financial year commencing on the 1st day of April, 1950 and for every subsequent financial year, agricultural income-tax shall be charged in accordance with, and subject to, the provisions of this Act on the total agricultural income of the previous year of every person.

Application of the Act.

4. Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the Hyderabad State.

Limits of taxable income.

[1][**5.** Agricultural Income-tax shall be payable for the financial year commencing on the 1st day of April, 1955 by every person whose total Agricultural Income of the previous year exceeds [2][I.G. Rs. 3,000] at the rate specified in the schedule :

Provided that from the amount so payable there shall be deducted an amount bearing to the amount so payable the same proportion which the period by which the previous year determined in accordance with sub-clause (i) of clause (m) of section 2 falls short of twelve months bears to twelve months :

Provided further that nothing contained in the foregoing provisions shall affect the limit of exemption of Rs. 10,000 for purposes of assessments pertaining to the financial years ending up to 31st March, 1955].

Determination of Agricultural Income mentioned in Clause (a) (1) of Section 2.

6. The agricultural income mentioned in sub-section (1) of clause (a) of section 2 shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said sub-clause (1) after making the following deductions :—

(a) The sum actually paid in the previous year as revenue to the State or as rent to a landlord in respect of the land from which such agricultural income is derived;

[1]. Substituted by Hyderabad Act No. IV of 1955.

(*b*) the sum actually paid in the previous year in respect of such land as any local cess or rate collected under any law of the Hyderabad State,

(*c*) a sum equal to 12½ per cent of the total amount of the rent which accrued due in the previous year, in respect of the charges for collecting the same,

(*d*) any expense incurred on the maintenance of any irrigation or protective work constructed exclusively for the benefit of the land from which such agricultural income is derived,

Explanation—Maintenance includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes,

(*e*) any expense incurred exclusively on the maintenance of any capital asset purchased or constructed before the 1st day of April 1950, if such maintenance is required in connection with the collection of rent due in respect of the land from which such agricultural income is derived,

(*f*) interest paid on any amount borrowed and actually spent on any capital expenditure incurred after the said day exclusively for the benefit of the land from which such agricultural income is derived

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such amount as a borrower under sections 10 and 11 of the Hyderabad Money Lenders Act, 1349 F,

(*g*) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after the commencement of this Act exclusively for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land,

(*h*) any interest paid on any mortgage or any other kind of debt or any interest paid on any other capital charge incurred exclusively for the purpose of acquiring the property from which such agricultural income is derived

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage debt or charge as a borrower under sections 10 and 11 of the Hyderabad Money Lenders' Act, 1349 F,

(*i*) when the property from which such agricultural income is derived is subject to a mortgage created

before the 1st day of April 1950, the amount of any interest actually paid on such mortgage :

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage as a borrower under sections 10 and 11 of the Hyderabad Money Lenders' Act, 1349 F. ;

(j) any Malikana paid by the assessee in respect of the land from which such agricultural income is derived.

Determination of Agricultural Income mentioned in Clause (a)(2) and (3) of Section 2.

7. (1) The agricultural income mentioned in sub-clauses (2) and (3) of clause (*a*) of section 2 shall be assessed on the net amount of such income determined in the prescribed manner.

(2) Rules prescribing the manner of determining the net amounts of agricultural income for the purpose of sub-section (1) shall provide that the following deductions shall be made from the gross amounts of such income, namely :—

(*a*) the sum actually paid in the previous year as revenue to the State or as rent to a landlord in respect of the land from which such agricultural income is derived ;

(*b*) the sum actually paid in the previous year in respect of such land as any local cess or rate collected under any law of the Hyderabad State ;

(*c*) any rate paid to a local fund or as a special rate in respect of any building used exclusively for the purpose of the cultivation of the land from which such agricultural income is derived ;

(*d*) any sum paid in respect of the land from which such agricultural income is derived as water cess or tax in accordance with any law or rules for the time being in force ;

(*e*) the expenses of cultivating the crop from which such agricultural income is derived, of transporting such crop to market, including the maintenance of agricultural implements and cattle required for the purpose of such cultivation and for transporting the crop to market;

(*f*) any tax, cess or rate paid under any law of the Hyderabad State on the cultivation or sale of the crop from which such agricultural income is derived;

(*g*) (*i*) any expense incurred on the maintenance of any irrigation or protective work constructed exclusively for the benefit of the land from which such agricultural income is derived ;

(*ii*) any expense incurred exclusively on the maintenance of any capital asset purchased or constructed before the 1st day of April 1950, if such

maintenance is required for the purpose of deriving such agricultural income from such land ,

Explanation —Maintenance includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes ,

(*iii*) interest paid on any amount borrowed and actually spent on any capital expenditure incurred after the commencement of this Act exclusively for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land :

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such amount as a borrower under sections 10 and 11 of the Hyderabad Money Lenders' Act, 1349 F

(*iv*) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after the commencement of this Act exclusively for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land , and

(*v*) any interest paid on any mortgage or other capital charge incurred exclusively for the purpose of acquiring the property from which such agricultural income is derived or for the purpose of cultivation of the property

Provided that no deduction shall be made under this clause, if it has already been made under section 6

Provided further that the interest allowable under *this clause shall not exceed the interest which the assessee* is liable to pay in respect of such mortgage or charge as a borrower under sections 10 and 11 of the Hyderabad Money Lenders' Act, 1349 F , and

(*h*) such other deductions as may be prescribed

Exemptions of charitable or religious trusts

8 (1) Where the assessee is a trustee and the trust under which he holds is a trust, created before the 1st day of April, 1950 for public purpose of a charitable or religious nature any income applied to any public purpose of a charitable or religious nature, in accordance with the terms of the trust subject to which he holds the property from which such agricultural income is derived, shall not be included in the total agricultural income of such assessee

(2) In the section, purposes of a charitable nature include relief of the poor, education and medical relief

Inclusion to prevent evasion of tax.

9. In computing the total agricultural income of an individual for the purpose of assessment, there shall be included—

(*a*) so much of the total agricultural income of a wife or minor child of such individual as arises directly or indirectly—

(*i*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart ;

(*ii*) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration ;

(*b*) so much of the total agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

Exemption of waqf-alal-aulad.

10. All agricultural income arising from a trust (created before 1st day of April, 1950) of the description known in Muslim law as Waqf-Alal-Aulad shall be excluded from the operation of this Act :

Provided that the share of a beneficiary under such trust shall not be exempted and the tax may be realised from the mutawalli and the basis of taxation shall be the share of each beneficiary.

Explanation.—For the purpose of this section, a beneficiary means the settler, his family, children or descendants.

Assessment of Hindu undivided family.

11. The total agricultural income of a Hindu undivided family shall be treated as the income of one individual and assessed as such :

Provided that if a Hindu undivided family consists—

(*i*) of brothers only, or

(*ii*) of a brother or brothers and the son or sons of a brother or brothers, or

(*iii*) of a brother or brothers and the son or sons of a brother or brothers of the father, or

(*iv*) of a brother or brothers, the son or sons of a brother or brothers and the son or sons of a brother or brothers of the father;

the total agricultural income of the family shall be assessed at [1][the rate specified in the Schedule]

[1][Provided that for the financial year commencing on the 1st day of April, 1955 the total agricultural income of the family shall be assessed—

(*a*) at the rate applicable to the share of a brother if such share exceeds Rs [2][3,000],

(*b*) at six pies in the rupee, if the share of a brother is Rs [2][3,000] or less]

Explanation—For the purposes of this section,—

(*i*) the expression "share of a brother", means the portion of the total agricultural income of a Hindu undivided family, which would have been allotted to a brother, if a partition of the property of such family had been effected according to the ordinary rule of Hindu law applicable to such family, on the day before the assessment is made, and

(*ii*) "son", includes a son's son but does not include the sons's son of a brother or brothers of the father

12. (1) Save as provided in sections 10, 13 and 15 if a person holds land on trust from which agricultural income is derived wholly for the benefit of another or partly for his own benefit and partly for the benefit of another, agricultural income tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such person had held the land as his personal property and exclusively for his own benefit, and the agricultural income-tax so payable shall be assessed on the person holding such land, and he shall be liable to pay the same Assessment of tax on land held for the benefit of several persons

(2) Any person holding such land shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount of agricultural income tax at the rate at which the agricultural income is or will be assessed under sub section (1)

Explanation—In this section "beneficiary" means the person for whose benefit agricultural income of the land held on trust is derived

13. Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of the sums payable as agricultural income tax by each Assessment of tax on common manager, receiver, etc

[1] Substituted by Hyderabad Act No IV of 1955

[2] Substituted by Hyderabad Act No VI of 1956

person on the agricultural income derived from such land and received by him shall be assessed on such common manager, receiver, administrator or the like, and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

Assessment of income derived from lands partly within the State and partly without.

14. Where agricultural income is derived from lands situated partly within the State and partly without the State, agricultural income-tax shall, be levied under this Act :—

(*i*) where the portion of such income attributable to the lands situated within the State can be determined from accounts maintained by the assessee, on the portion so determined ;

(*ii*) where the portion of the income so attributable cannot be determined by the method specified in clause (*i*), on such portion as may be determined in the prescribed manner.

Court of Wards, Administrator, etc.

15. In the case of agricultural income chargeable under this Act, which is received by the Court of Wards, the Administrator or the Official Trustee, the tax shall be levied upon and recoverable from such Court of Wards, Administrator, or Official Trustee, in the like manner and to the same amounts as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly.

Exemptions in case of life insurance.

16. (1) (*a*) Agricultural income-tax shall not be payable by an assessee in respect of any sums paid by him out of his total agricultural income to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any provident fund to which the Provident Funds Act, 1355 F., applies, or in respect of any sum paid by him in the previous year as premium in order to effect any insurance against loss of or damage to land or any crops to be raised thereon or against risk of damage or destruction of buildings from which agricultural income is derived :

Provided that agricultural income-tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable if such deduction had not been made.

(*b*) Nothing in this sub-section shall be deemed to entitle an assessee, who is assessed to income-tax under the Indian Income-tax Act, 1922, to claim a deduction in respect of any sum paid by him as mentioned in clause (*a*), if such sum was exempted under section 15 of the said Act.

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any member of the family.

(3) The aggregate of any sums exempted under this section shall not exceed one sixth of the total agricultural income of the assessee

[1][**16 A** Where any assessee sustains a loss of profits or gains in any year being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March 1951, the loss shall be carried forward to the following year and set off against the profits or gains if any of the assessee from agricultural income for that year and if it cannot be wholly so set off the amount of loss not so set off shall be carried forward to the following year and so on but no loss shall be carried forward for more than six years] Carrying forward of loss of profits or gains

17. Agricultural income tax payable by a person shall in no case, exceed half the amount by which his total agricultural income exceeds the maximum amount not chargeable to agricultural income tax Marginal adjustment of tax

Chapter III

INCOME TAX AUTHORITIES

18 (1) There shall be the following classes of income tax authorities for the purposes of this Act, namely — Income tax authorities

(*a*) Commissioner of Agricultural Income tax,

(*b*) Deputy Commissioners of Agricultural Income-tax,

(*c*) Agricultural Income tax Officers

(2) The authorities specified in sub section (1) shall be appointed by the Government and shall exercise and perform in such areas as the Government may, by notification, determine the prescribed powers and duties and their conditions of service, and their relation to each other shall be such as may be prescribed

(3) The Government may, by notification empower any officer, other than the authorities specified in sub section (1), to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as may be specified in the notification

(4) The persons appointed as authorities specified in sub-section (1) shall be deemed to be public servants within the meaning of the Hyderabad Penal Code

Chapter IV

ASSESSMENT, DEDUCTIONS AND EXEMPTIONS

19 (1) The principal officer of every company shall in each year furr [illegible] on or before the [illegible] be fixed by the ([illegible] prescribed form and verified in the prescribed manner, of Return of agricultural income

[1]Inserted by Hyderabad Act XVII of 1951, Section 2

the total agricultural income of the company during the previous year:

Provided that the Agricultural Income-tax Officer may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies and in a case where a company's accounts are closed at the end of May, the Agricultural Income-tax Officer, without prejudice to the generality of his powers, shall extend the date to the end of July.

(2) In the case of any person not being a company whose total agricultural income is, in the opinion of the Agricultural Income-tax Officer, of such an amount as to render such person liable to agricultural income-tax for any financial year, the Agricultural Income-tax Officer may serve in that year a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth, along with such other particulars as may be provided for in the notice, his total agricultural income during the previous year:

Provided that the Agricultural Income-tax Officer may, in his discretion, extend the date for the delivery of the return.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or, having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

nent. **20.** (1) If the Agricultural Income-tax Officer is satisfied that a return made under section 19 is correct and complete, he shall, by order in writing, assess the total agricultural income of the assessee, and determine the sum payable by him on the basis of such return.

(2) If the Agricultural Income-tax Officer is not satisfied that the return is correct and complete, he shall serve on the person who made the return a notice requring him on the date specified therein, either to attend at the office of the Agricultural Income-tax Officer or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Agricultural Income-tax Officer may require on specified points, shall, by an order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on such assessment.

(4) If any person fails to make a return under sub-section (1) or sub-section (2) of section 19, or, having made the return, fails to comply with all the terms of the notice

issued under sub section (2) of this section, or to produce any evidence required under sub section (3) of this section, the Agricultural Income-tax Officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment

Provided that before making such assessment, the Agricultural Income-tax Officer may allow the assessee such further time as he thinks fit to make the return or to comply with the terms of the notice or to produce the evidence

Penalty for concealment of income

21 (1) If the Commissioner, the Deputy Commissioner or the Agricultural Income tax Officer, in the course of any proceeding under this Act, is satisfied that an assessee has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the agricultural income-tax payable by him, pay by way of penalty a sum not exceeding the amount of agricultural income-tax which would have been avoided if the agricultural income so returned by the assessee had been accepted as the correct income

Provided that no such order shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard

(2) No prosecution for an offence against this Act shall be instituted in respect of the facts on which a penalty has been imposed under this section

(3) If the Commissioner or the Deputy Commissioner makes an order under sub section (1), he shall forthwith send a copy of the same to the Agricultural Income tax Officer

Tax of deceased person payable by representative

22 (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the agricultural income-tax assessed as payable by such person, or any agricultural income tax which would have been payable by him under this Act if he had not died

(2) Where a person dies before he furnishes a return as required under the provision of sub section (1) of section 19 or before he is served with a notice under sub-section (2) of that section or under section 27, as the case may be, the Agricultural Income-tax Officer may serve on his executor, administrator or other legal representative a notice under sub section (2) of section 19 or under section 27, as the case may be, and may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions of section 19 or having furnished a return which

the Agricultural income-tax Officer has reason to believe to be incorrect or in complete, the Agricultural Income-tax Officer may make an assessment of the total agricultural income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may require from the executor, administrator or other legal representatives of the deceased person any accounts, documents or other evidence which he might under the provisions of sub-sections (2) and (3) of section 20 have required from the deceased person.

Notice of demand.

23. When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Act.

24. (1) Any assessee objecting to the amount of income assessed or rate at which he is assessed under section 20 or denying his liability to be assessed under this Act or objecting to any order under section 21 made against him by the Agricultural Income-tax Officer, may appeal to the prescribed authority against the assessment or against such order.

(2) Every appeal under this section shall ordinarily be presented within the prescribed period, but the authority before whom the appeal is filed may admit and appeal after the expiration of the prescribed period, if such authority is satisfied that the appellant had sufficient cause for not presenting it within the prescribed period.

(3) The prescribed authority shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make such further inquiry as it thinks fit.

(4) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the prescribed authority may—

(*i*) in the case of an order of assessment—

(*a*) confirm, reduce, enhance or annul the assessment;

(*b*) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after such further inquiry as may be directed; or

(*ii*) in the case of an order under section 21 confirm, cancel or vary such order :

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of being heard against such enhancement.

Power of revision.

25. (1) The Commissioner may, of his own motion or on application by an assessee, call for the record of any proceeding under this Act.

(2) On receipt of the record, the Commissioner may make such inquiry, or cause such inquiry to be made, and subject to the provisions of this Act, may pass such orders thereon as he thinks fit

Provided that the Commissioner shall not revise any order unless the proceeding for the revision of such order has been initiated within three years of the date of such order

Provided further that the Commissioner shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard

Provided also that an order of the Commissioner declining to interfere shall not be deemed to be an order prejudicial to the assessee

(3) An application for revision under this section shall be made within such period as may be prescribed but the

Reference of case by Commissioner to High Court

26 (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VI, a question of law arises, the Commissioner may either of his own motion or on reference from any agricultural income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court

(2) Within sixty days of the date on which he is served with notice of an order under section 24 or of an order under section 25 enhancing an assessment or otherwise prejudicial to him, the assessee in respect of whom the order or decision was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order or decision, and the Commissioner shall within sixty days of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court

Provided that a reference shall lie from an order under section 24 only on a question of law arising out of that order itself, and not on a question of law arising out of a previous order under section 25 revised by the order under section 25:

Provided further that in the case of a reference from an order under section 24, in computing the period of sixty days from the date on which the assessee was served with

Provided lastly that, if, in exercise of his power of revision under section 25, the Commissioner decides the question or if the Commissioner rejects the application on the ground that it is time-barred or otherwise incompetent, or if, in exercise of his power under sub-section (3) the Commissioner refuses to state the case, the assessee may, within thirty days from the date on which he receives notice of the order, passed by the Commissioner, withdraw his application, and if he does so, the fee paid shall be refunded.

(3) If, on any application being made under sub-section (2), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may apply, within six months from the date on which he is served with notice of the refusal, to the High Court, and the High Court, if it is not satisfied of the correctness of the decision of the Commissioner, may require him to state the case and to refer it and on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

(4) If, on any application being made under sub-section (2), the Commissioner rejects it on the ground that it is time-barred the assessee may, within two months from the date on which he is served with notice of the order of the Commissioner, apply to the High Court, and the High Court if it is not satisfied of the correctness of the decision of the Commissioner may require the Commissioner to treat the application as made within the time allowed under sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner to make such additions thereto or alterations therein as the Court may direct in that behalf.

(6) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any agricultural income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(7) Where a reference is made to the High Court on the application of an assessee, the case shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

(9) Section 5 of the Hyderabad Limitation Act, 1352F, shall apply to an application to the High Court by an assessee under sub-section (3) or sub-section (4)

27 If in consequence of definite information which has come into his possession, the Agricultural Income-tax Officer discovers that any agricultural income chargeable to agricultural income tax has escaped assessment in any year or has been under-assessed, or has been assessed at too low a rate, or has been the subject of excessive relief under this Act, the Agricultural Income-tax Officer may, in any case in which he has reason to believe that the assessee has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars thereof, at any time within six years and in any other case at any time within three years of the end of that year, serve on the person liable to pay agricultural income-tax on such agricultural income or, in the case of a company, on the principal officer of such company, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 19 and may proceed to assess or reassess such income, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section Income escaping assessment

Provided that the agricultural income-tax shall be charged at the rate at which it would have been charged, had the agricultural income not escaped assessment or full assessment as the case may be

[1][Provided further that for purposes of assessment of the agricultural income for the year 1952-53 the period within which a notice may be served shall in respect of cases other than those in which the Agricultural Income-tax Officer has reason to believe that an assessee has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars thereof, be four years]

28 (1) The authority which passed an order on appeal or revision may, at any time within one year from the date of such order, and the Agricultural Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, of his own motion rectify any mistake apparent from the record of the appeal, revision or assessment, as the case may be, and shall within the like period rectify any such mistake as has been brought to his notice by such assessee Rectification of mistake

Provided that no such rectification, shall if it has the effect of enhancing an assessment, or reducing a refund, be made, unless the appellate or revisional authority or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee

[1]Inserted by Hyderabad Act VI of 1956, section 4

(3) Where any such rectification has the effect of enhancing an assessment or reducing a refund, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 23, and the provisions of this Act shall apply accordingly.

Tax to be collected to the nearest anna.

29. In the determination of the amount of agricultural income-tax or of a refund payable under this Act, fractions of a rupee equal to eight or less than eight annas shall be disregarded and a fraction of a rupee exceeding eight annas shall be regarded as one rupee.

Power to take evidence on oath,

30. The Commissioner, the Deputy Commissioner, and the Agricultural Income-tax Officer, shall for the purposes of this chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1323 F., when trying a suit in respect of the following matters namely:—

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents ; and

(*c*) issuing commissions for the examination of witnesses and any such proceeding before such Commissioner, Deputy Commissioner, or Agricultural Income-tax Officer under this chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 169 and 205 and for the purpose of section 172 of the Hyderabad Penal Code.

Bar to recovery of rent in excess of that mentioned in rent-roll.

31. (1) If any person assessed to agricultural income-tax in respect of agricultural income mentioned in sub-clause (1) of clause (*a*) of section 2 produces before the Agricultural Income-tax Officer, for the purpose of calculating his agricultural income, any rent roll or other document showing the amount of rent received by him he shall not be entitled to recover by suit or otherwise rent due to him in respect of any tenure or holding included in his return at rate higher than the rate mentioned in such rent-roll or document in respect of such tenure or holding, unless the rent thereof has, since the date of return, been lawfully enhanced.

(2) Any person who has produced a rent-roll or other document referred to in sub-section (1) may, within one year of producing such rent-roll or document, apply to the Agricultural Income-tax Officer to make any correction therein, and the Agricultural Income-tax Officer may, if he is satisfied that such correction should be made, pass an order correcting such rent-roll or document.

(3) Where the Agricultural Income-tax Officer passes any order under sub-section (2) he may assess under section 27 any income escaping assessment by reason of the original incorrectness of any entry corrected.

32. The Deputy Commissioner or the Agricultural Income-tax Officer, may, for the purposes of this Act— Power to call for information

(1) require any firm or Hindu undivided family to furnish him with a return of the names of members of the firm or of the names of the Manager or the brothers and sons of brothers of the family as the case may be, and of their addresses,

(2) require any person whom he has reason to believe to be a trustee, guardian or agent to furnish him with a return of the names of the persons for or of whom he is a trustee, guardian or agent and of their addresses

CHAPTER V

RECOVERY OF TAXES AND PENALTIES

33. (1) Any amount specified as payable in a notice of demand under section 23 shall be paid at the place specified in the notice, and within thirty days from the date of the service of the notice, and any assessee failing so to pay shall be deemed to be in default Tax when payable

Provided that where an assessee has presented an appeal under section 24, the Agricultural Income-tax Officer may, in his discretion, treat the assessee as not being in default so long as such appeal is undisposed of

(2) If an assessee makes an application within the time mentioned in the notice of demand under section 23 or an order under section 24 or 25 for being allowed to pay the tax due by instalments, the Agricultural Income-tax Officer may, in his discretion, by order in writing, allow the assessee to pay the tax due in instalments not exceeding four in number at such intervals as the said officer may fix in his discretion

Provided that if, as a result of an application made by the assessee, the Agricultural Income tax Officer allows the assessee to pay the tax due in instalments, the assessee shall be deemed to have waived all his rights of appeal under this Act

Provided further that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment, he shall be deemed to be a defaulter in respect of the total remaining amount of tax due

34. (1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income tax Officer may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding half that amount shall be recovered from the assessee by way of penalty Mode and time of recovery

(2) For the purposes of sub-section (1), the Agricultural Income tax Officer may direct the recovery of any sum less than half the amount of the arrears and may enhance the sum so directed to be recovered from time to

time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed half the amount of the arrears payable.

(3) When an assessee is in default, the Agricultural Income-tax Officer may forward to the Taluqdar a certificate under his signature specifying the amount of arrears due from the assessee, and the Taluqdar, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as a public demand payable to the Taluqdar.

(4) When agricultural income-tax is, under section 8, payable by a trustee, or under section 10, payable by the Mutawalli of a trust of the description referred to in that section, and such trustee or Mutawalli is in default, the Agricultural Income-tax Officer may forward to the Taluqdar a certificate under his signature specifying the amount of arrears due from the assessee, and the Taluqdar on receipt of such certificate shall proceed to recover from such trustee or Mutawalli the amount specified therein as a public demand :

Provided that without prejudice to any other powers of the Taluqdar in this behalf, he shall for the purpose of recovering the said amount have the powers which under the Civil Procedure Code, 1323 F., a Civil Court has for the purpose of the recovery of an amount due under a decree.

(5) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of three years after—

(*a*) the last date on which the sum is payable without the assessee being deemed to be in default; or

(*b*) the date on which the last instalment fixed under sub-section (2) of section 33 falls due.

Recovery of penalties.

35. Any sum imposed by way of penalty under the provisions of section 21, or section 34 shall be recoverable in the manner provided in this chapter for the recovery of an arrear of tax.

Right, title and interest of members of Hindu undivided family or of other persons on whose behalf property is held to pass to the purchaser when property is sold for realisation of arrears of tax

36. (1) Where any property of a Hindu undivided family is sold under the said Act for the realization of arrears of agricultural income-tax, the right, title and interest of all members of such family in the property shall pass to the purchaser.

(2) Where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrear, the land so held by him may be attached and sold for the realization of such arrears, and on such sale, the right, title and interest of such persons in the said land hall pass to the purchaser.

CHAPTER VI

OFFENCES AND PENALTIES

False statement in declaration

37 If any person makes a statement in a verification mentioned in section 19 or section 24 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both

Prosecution to be at the instance of the Deputy Commissioner

38 (1) A person shall not be proceeded against for an offence under section 37 except at the instance of the Deputy Commissioner

(2) Before instituting proceedings against any person under sub-section (1), the Deputy Commissioner shall call upon such person to show cause why proceedings should not be instituted against him

(3) The Deputy Commissioner may stay any such proceeding or compound any such offence.

Disclosure of information by public servant

39 (1) All particulars contained in any statement made, return furnished, or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this chapter, or in any record of an assessment proceeding or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Hyderabad Evidence Act II of 1313 F, no court shall, save as provided in this Act be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of such record or to give evidence before it in respect thereof

(2) If, save as provided in sub-section (3), a public servant discloses any particulars contained in any such statement, return, accounts, document, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

(3) Nothing contained in this section shall apply to the disclosure—

(*a*) of any such particulars for the purpose of a prosecution under the Hyderabad Penal Code, in respect of any such statement, return, accounts, document, evidence, affidavit or deposition or for the purpose of a prosecution under this Act, or

(*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act ; or

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand ; or

(*d*) of any such particulars to a Civil Court in any suit to which the Government is a party which relates to any matter arising out of any proceeding under this Act ; or

(*e*) of any such particulars to any officer appointed to audit agricultural income-tax receipts or refunds ; or

(*f*) of any such particulars relevant to any inquiry into the conduct of an official of the Agricultural Income-tax Department to any personer appointed to hold such inquiry ; or

(*g*) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it ; or

(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Hyderabad Stamp Act, 1331 F., to impound an insufficiently stamped document ; or

(*i*) of such facts to any person charged by law with the duty of inquiring into the qualifications of electors, as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll ; or

(*j*) of any such particulars relevant to an inquiry into a charge of misconduct in connection with income-tax proceedings against a lawyer or accountant to the authority empowered to take cognisance of such charge ; or

(*k*) of any such particulars to any assessee or his legal representative as may be necessary to furnish copies of documents or statements submitted by the assessee under this Act and to establish the correctness thereof.

Cognisance of offences.

40. (1) No court shall take cognisance of any offence under this Act, or the rules made thereunder, except with the previous sanction of the Deputy Commissioner, and no court inferior to that of a Magistrate of the first class shall try any such offence.

(2) Notwithstanding anything contained in the Hyderabad Criminal Procedure Code, all offences punishable under this Act shall be cognisable and bailable.

Chapter VII

MISCELLANEOUS

Place of assessment

41. (1) Subject to any orders passed under sub sec-tion ... ed by t ... in whic ... of the ...

Provided that where an assessee has made a return under sub-section (1) of section 19 to the Agricultural Income tax Officer having jurisdiction over the assessee's place of residence or the place where any of his lands are situated or where his accounts are maintained, he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the officer concerned unless for reasons to be recorded in writing, he passes an order that the assessment shall be made in any other place

(2) (*a*) An assessee who has not made a return under section 19 may at any time before the expiry of the time allowed for the submission of the return, apply to the Agricultural Income tax Officer of the area in which is situated the land from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the Hyderabad State and the Agricultural Income-tax Officer shall refer the matter to the Deputy Commissioner whose decision thereon shall be final

(*b*) Where an order is passed under clause (*a*), the assessee shall not be entitled to make any further application to change his place of assessment

Provided that the Agricultural Income-tax Officer may allow the assessee to be assessed at any other place upon such conditions as he thinks fit

(3) Notwithstanding anything contained in this section, every Agricultural Income tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area to which he is appointed

Bar of suits in Civil Courts

42 No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, ... lie against ... done or ...

Computation of periods of limitation.

... limitation prescribed ... on which the order ... me requisite for obtaining a copy of such order shall be excluded

Appearance by authorised representative.

44. Any assessee, who is entitled or required to attend before any agricultural income-tax authority in connection with any proceeding under this Act, otherwise than when required under section 30 to attend personally for examination on oath or affirmation, may attend either in person or by any person authorised by him in writing in this behalf.

Receipts to be given.

45. A receipt shall be given for any money paid or recovered under this Act.

Service of notices.

46. (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a court, under the Code of Civil Procedure, 1323 F.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager, or any adult male member of the family, and, in the case of any other association of individuals, be addressed to the principal officer thereof; and any such notice or requisition so addressed shall be deemed to be a notice or requisition to the firm, family or association of individuals, as the case may be.

Indemnity.

47. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.

Powers of Agricultural Income-tax authorities to call for papers or documents.

48. Nothing in this Act shall be deemed to authorise any of the agricultural authorities mentioned in section 18 to call for any papers or documents for the purpose of ascertaining agricultural income or for any other purpose under this Act except the papers noted below :—

(1) papers showing the amount of rent which accrued due in the previous year;

(2) papers showing the actual receipt of agricultural income by an assessee in the previous year;

(3) ledgers showing the actual expenditure incurred for which a deduction or exemption is claimed under this Act;

(4) Original vouchers supporting the items of expenditure referred to in cause (3) ; and

(5) any other paper which in the opinion of any of the agricultural income-tax authorities is relevant to the ascertainment of the agricultural income of an assessee or the verification of claims for deducting or exemption made by an assessee.

Power to seize papers etc., and search [illegible] premises.

49. (1) If the Agricultural Income-tax Officer has reason to believe that any person is attempting to evade the payment of any tax due from him under this Act he may for reasons to be recorded in writing, seize or take

copies of or cause copies to be taken of any register of members, debentures, mortgage deeds, rent roll and batai, counterfoils of rent receipts, cash books, ledgers and other documents which, in the opinion of the Agricultural Income-tax Officer, are relevant to the ascertainment of the agricultural income of such person, and shall grant a receipt for any of the papers or documents so seized and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution

(2) For the purposes of this section, the Agricultural Income-tax Officer may enter and search the office premises of such person

Power to make rules.

50 (1) The Government may, after previous publication, make rules for carrying out the purposes of this Act, and such rules may be made for the whole of the State or for such part thereof as may be specified

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which, and the procedure by which, the net agricultural income of a person referred to in sub-section (1) of section 7 shall be determined,

(*b*) prescribe the rate of depreciation in respect of capital assets referred to in sub-clause (*iv*) of clause (*g*) of sub-section (2) of section 7,

(*c*) prescribe deductions, other than the deductions mentioned in clauses (*a*) to (*g*) of sub section (2) of section 7, to be made in the computation of the net agricultural income,

(*d*) prescribe the manner in which, and the procedure by which, the portion of the agricultural income referred to in clause (*ii*) of section 14 shall be determined,

(*e*) prescribe the powers, functions and duties of agricultural income-tax authorities, the area in which such powers, functions and duties shall be exercised and performed, the relation of such authorities to each other and the conditions of service of such authorities,

(*f*) prescribe the form of returns under section 19 and the manner in which they shall be verified,

(*g*) prescribe the form of the notice of demand mentioned in section 23 and in sub-section (3) of section 28,

(*h*) prescribe the authority to whom appeals may be preferred under sub section (1) of section 24, the period, not being less than thirty days, within which such appeals shall be presented, the form of such appeals and the manner in which they shall be verified,

(i) prescribe the period within which applications for revision referred to in sub-section [illegible] of section 25 shall be made;

(j) prescribe the fee mentioned in sub-section (2) of section 26;

(k) prescribe the method by which the assessment of agricultural income as determined under section 6 or section 7 shall be made in the case of an assessee who does not reside in the Hyderabad State or of an assessee who resides in the Hyderabad State and is temporarily absent therefrom;

(l) prescribe the manner in which the tax payable by an assessee who has died since the date of the assessment made on him shall be payable;

(m) prescribe the manner in which the tax shall be payable where the assessment is made on the agricultural income of a Hindu undivided family and a partition of the property of such family has been effected after the date of such assessment;

(n) provide for the circumstances in which refunds of the tax paid under this Act shall be made and prescribe the manner in which such refunds shall be made;

(o) prescribe fees incidental to the disposal of appeals, applications for revision, and any other application or petition filed before any of the agricultural income-tax authorities referred to in section 18; and

(p) provide for any other matter which by this Act has to be or may be prescribed.

Saving of Act VIII of 1357 F. tax for the year 1359 F.

51. (1) Nothing in this Act shall affect the continued application of the Income-tax Act, 1357 F., (hereinafter in this section referred to as the said Act) to the assessment and levy of the tax payable by any person for the year 1357 F. or the year 1358 F. and to all matters arising out of such assessment and levy.

[1][(1A) Notwithstanding anything contained in sub-section (1) and notwithstanding the fact that the period of three years referred to in sub-section (1) of section 46 of the said Act has expired in any case, an assessment and levy of tax on agricultural income as defined in this Act shall be made for the year 1357 F., and also for the year 1358 F. by Agl. Income-tax Officers appointed for the purpose, so far as may be in accordance with the provisions of the said Act which shall, however, be read as though the second proviso to clause (4) of section 2 thereof were omitted and the words "three years" in sub-section (1) of section 46 thereof, were replaced by the words "four years":

[1]Inserted by Hyderabad Act No. XXXVII of 1951.

Provided that nothing in this sub-section shall authorise the reopening of an assessment which has already been completed]

(2) Where the assessment of the income tax payable by an assessee for the year 1359 F under the said Act has been completed before the 1st day of April, 1950, nothing in this Act shall affect the assessment, and appeals from, and all other proceedings arising out of, the assessment shall be regulated by the said Act

(3) Where the assessment of the income-tax payable by an assessee for the year 1359 F under the said Act has not been completed before the 1st day of April, 1950, the tax so payable shall be assessed in accordance with the provisions of the said Act on the assessee's agricultural income as defined in this Act of the previous year as determined under the said Act, and appeals from, and all other proceedings arising out of, the assessment shall be regulated by this Act

(4) Subject to the provisions of sub-section (1), [(1A)][1] (2) and (3) the said Act shall cease to have effect

[1]Inserted by Hyderabad Act No XXXVII of 1951.

THE SCHEDULE

(See the proviso to section 5)

	(*Rate*) (pies in the rupee)
1. On the first Rs. 1,500 of total income .	Nil
2. On the next Rs. 3,500 of total income	6
3. On the next Rs. 5,000 of total income .	12
4. On the next Rs. 5,000 of total income .	24
5. On the balance of total income .	36

THE ASSAM AGRICULTURAL INCOME-TAX ACT, 1939

[ACT IX OF 1939]

An Act to provide for the imposition of a tax on agricultural income

WHEREAS it is expedient to impose a tax on agricultural income arising from lands situated in the Province of Assam,

It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1 (1) This Act may be called the Assam Agricultural Income-tax Act, 1939 — Short title

(2) It shall take effect from the 1st of April, 1939

2 In this Act, unless there is anything repugnant in the subject or context— — Definitions

(a) "agricultural income" means—

(1) Any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in Assam or subject to a local rate assessed and collected by officers of the [Government][1] as such

(2) Any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub clasue (ii),

Explanation —Agricultural income derived from such and by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax

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[1]Substituted by A O, 1950 for "Crown"

(*b*) "agricultural income-tax" means the tax payable under this Act;

(*bb*) [1]["Inspector of Taxes or Agricultural Income-tax Inspector"] means person appointed to be [1][Inspector of Taxes or Agricultural Income-tax Inspector] under sub-section (2) of section 18[2];

(*c*) [1]["Superintendent of Taxes or Agricultural Income-tax Officer"] means a person appointed to be [1][a Superintendent of Taxes or Agricultural Income-tax Officer] under sub-section (2) of section 18;

(*d*) "previous agricultural year" means the twelve months ending the 31st of March preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, [or if the accounts of an assessee are made upto a date ending on the last date of a Bengali or Ramnavami year beyond the said 31st day of March][3] then at the option of the assessee the year ending on the day to which his accounts have so been made up:

Provided that, if this option has once been exercised by the assessee, it shall not again be exercised so as to vary the meaning of the expression "agricultural year" as then applicable to such assessee except with the consent of the [1][Superintendent of Taxes or Agricultural Income-tax Officer] and upon such conditions as he may think fit.

(*e*) "assessee" means a person by whom agricultural income-tax is payable;

(*f*) [1]["Assistant Commissioner of Taxes"] means a person appointed to be an [1][Assistant Commissioner of Taxes] under sub section (2) of section 18;

(*g*) "Board" means the [4][*] Board of Agricultural Income-tax appointed under sub-section (2) of section 18;

(*h*) "Commissioner" * * * * *[5] means a person appointed to be [6][a] [1][Commissioner of Taxes] under sub-section (2) of section 18;

(*i*) "Company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament [of the United Kingdom][7] V of

[1]Substituted by Assam XXV of 1954 Sec. 2(i).
[2]Inserted by the Assam Act X of 1952.
[3]Inserted by Assam Act XXXVI of 1950.
[4]Omitted by Assam XXV of 1954 Sec. 3 (i).
[5]Omitted by Assam Act XXXVI of 1950.
[6]Substituted by Assam XXV of 1954 Sec. 2 (ii).
[7]Inserted by A. O. 1950.

or of Royal Charter, or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in [India][1] whether incorporated or not, and whether its principal place of business is situated in [India][1] or not which the [2][Commissioner] may, by general or special order, declare to be a Company for the purposes of this Act ,

(*j*) "financial year" means the year beginning on the first day of April and ending on the thirty-first day of March next following ,

Act IX of 1932

(*k*) ["firm", "Partner" and "Partnership" have the same meanings respectively as in the Indian Partnership Act, 1932, provided that the expression "Partner" includes any person who being a minor has been admitted to the benefits of Partnership][3]

Assam Act III of 1935
Assam Act XI of 1936
Assam Act I of 1929

(*l*) "landlord" has the same meaning as in the Assam [Temporarily settled Districts] Tenancy Act 1935, / Sylhet Tenancy Act 1936, / Goalpara Tenancy Act 1929,

(*m*) "person" means any individual or association of individuals, owning or holding property for himself or for any other or others or partly for his own benefit and partly for that of any other or others, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided or joint Hindu Family firm or company ,

(*n*) "prescribed" means prescribed by Rules made under this Act ,

(*o*) "principal officer" used with reference to any company or association means —

(*i*) the secretary, treasurer, manager or agent of the company or association, or

(*ii*) any person connected with the company or association upon whom the [4][Superintendent of Taxes or Agricultural Income-tax Officer] has served a notice of his intention of treating him as principal officer thereof , and

(*p*) "total agricultural income" means the aggregate of amounts of agricultural income [referred to

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[1]Substituted by A O 1950 for "British India"

[2]Substituted for "Board" by Assam XXV of 1954 Sec 3(ii)

[3]Substituted by Assam Act XXXVI of 1950 for the original clause (k) which ran as follows —

"Firm" has the same meaning as in the Indian Partnership Act, 1932

[4]Substituted by Assam XXV of 1954 Sec 2 (i)

in clause (a) of section 2 and determined in the manner laid down in or under this Act.][1].

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of agricultural income-tax.

3. *Agricultural Income-tax at the rate or rates specified in the annual Assam Finance Acts subject to the provisions of section 6 shall be charged for each financial year in accordance with, and subject to, the provisions of this Act on the total agricultural income of the previous year of every individual, Hindu undivided or joint family, company, firm and other association of individuals.

Exemptions.

4. Except as provided elsewhere in this Act agricultural income-tax shall not be assessed on, and be payable by, an assessee in respect of—

(*i*) Any income which he receives as a member of a Hindu joint or undivided family where the agricultural income of such family has been assessed to agricultural income-tax under this Act,

(*ii*) Any sum which he receives by way of dividend as a share-holder in any company where the agricultural income of the company has been assessed to agricultural income-tax under this Act,

(*iii*) Such an amount of the agricultural income of any firm which has been assessed to agricultural income-tax under this Act as is proportionate to his share in the firm at the time of such assessment and is received by him,

(*iv*) Any sum which he receives as his share of the agricultural income of an association of individuals other than a Hindu joint or undivided family, company or firm where such agricultural income has been assessed to agricultural income-tax under this Act.

(*v*) Any sum which he receives after the tax in respect there of has been assessed under sections 9 to 14 and realised.

Application of the Act.

5. Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the [State][2] of Assam.

Limit of taxable income.

6. Agricultural Income-tax shall be payable by persons whose total agricultural income of the previous agricultural year exceeds Rs. 3,000 at such rates as may be laid down from year to year in the annual Assam Finance Acts :
[3][* * * * * * * *]

[1]Substituted by the Assam Act XXXVI of 1950 for the words "of the different clas specified in sections 7 and 8 as determined respectively in the manner laid in t said sections".

[2]Substituted by A. O. 1950 for "Province".

[3]The proviso was deleted by Assam III of 1954.

*Rates fixed under the Assam Finance Act, 1959 are given at the end of this Act.

Explanation—Income tax for the purposes of this Act does not include super tax

7 The agricultural income mentioned in sub clause (1) of clause (*a*) of section 2 shall be deemed to be the sum realised in the previous agricultural year on account of agricultural income mentioned in the said sub clause (1), after making the following deductions — Determination of agricultural income

(*a*) the sum actually paid in the previous agricultural year as revenue to the [1][Government] or as rent to superior landlord in respect of the land from which such agricultural income is derived,

(*b*) the sum actually paid in the previous agricultural year in respect of such land as any local rate collected under enactment in force in Assam,

(*c*) *a sum equal to 15 per cent of the total amount of* the rent which accrued due in the previous agricultural year, in respect of the charges for collecting the same

Bengal Act VI of 1870

(*d*) any rate paid under the Village Chowkidari Act, 1870 in respect of any building used by the assessee as an office for the collection of the rents due in respect of the land from which such agricultural income is derived

(*e*) any expenses incurred on the maintenance of any irrigation or protective work constructed for the benefit of the land from which such agricultural income is derived ,

(*f*) in respect of the current repairs to any capital asset used in connection with the collection of rents due in respect of the land from which agricultural income is derived, the amount paid on account thereof,

(*g*) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred *after the first April 1937 for the benefit of the land* from which such agricultural income is derived

(*h*) depreciation in respect of any capital a set purchased or constructed after first April 1937 for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land at such rates as may be prescribed by the Central Government for computing profits or gains of any business for the purpose of assessment of income tax thereon and in default of such prescription prescribed by rules under section 50,

(*i*) any interest actually paid on any mortgage or any other kind of debt or any interest actually paid on any other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived ,

[1]Substituted by A O 1950 for ' Crown

(*j*) when the property from which such agricultural income is derived is subject to a mortgage created before the 1st day of January 1939, the amount of any interest actually paid on such mortgage ;

(*k*) any *malikana* or similar levy actually paid by the assessee in respect of the land from which such agricultural income is derived ;

(*l*) any sum actually paid as interest in respect of loans taken under the Agriculturists Loans Act, 1884 and the Land Improvement Loans Act, 1883 ; and Act XII of 1884. Act XIX of 1883.

(*m*) such other deduction on account of depreciation or any other cause as may be prescribed by rules under section 50.

Determination of agricultural income mentioned in clause (a) (2) of section 2.

8. (1) The agricultural income mentioned in sub-clause (2) of clause (*a*) of section 2 shall be assessed on the net amount of such income determined in the prescribed manner,

(2) Rules prescribing the manner of determining the net amounts of agricultural income for the purpose of this clause shall provide that the following deductions shall be made from the gross amounts of such income, namely :—

(*a*) the sum actually paid in the previous agricultural year as revenue to the [1][Government] or as rent to a superior landlord in respect of the land from which such agricultural income is derived ;

(*b*) the sum actually paid in the previous agricultural year in respect of such land as any local rate collected under any enactment in force in Assam;

(*c*) any rate paid under the Village Chowkidari Act, 1870, in respect of any building used for the purposes of the cultivation of the land from which such agricultural income is derived ; Bengal Act VI of 1870.

(*d*) the expenses of cultivating the crop from which such agricultural income is derived and of transporting such crop to market, including the maintenance of agricultural implements and cattle required for the purpose of such cultivation and for transporting the crop to market ;

(*e*) any tax, or rate paid under any enactment in force in Assam on the cultivation or sale of the crop from which such agricultural income is derived ;

(*f*)(*i*) any expenses incurred on the maintenance of any irrigation or protective works constructed for the benefit of the land from which such agricultural income is derived ;

(*ii*) any expenses incurred on the maintenance of any capital asset, if such maintenance is deemed to be required for the purpose of deriving such agricultural income from such land ;

[1] Substituted by A. O., 1950 for "Crown".

(*iii*) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land ;

(*iv*) (*a*) depreciation of any asset required for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land subject to the provisions of this Act in the manner allowed and at the rates prescribed for the purposes of Indian Income-tax or in default of such prescription as prescribed by rules under section 50 of this Act ;

(*b*) in respect of any such machinery or plant which in consequence of its having become obsolete has been sold or discarded the difference between the written down value as defined for the purposes of Indian income-tax and the amount for which the machinery or plant is actually sold or its scrap value ;

(*v*) any sum paid in order to effect an insurance against loss or damage of crop or property from which agricultural income is derived provided that notwithstanding anything contained in this Act in the case of an assessee in whose case deduction on that account is made in assessment any amount received by him from the insurance company in any year shall be deemed to be for the purpose of this Act agricultural income after deducting the share or portion thereof assessed to the Indian Income-tax ;

(*vi*) any interest paid on any mortgage or other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived or for the purposes of cultivation of the property

(*vii*) any expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of earning or deriving the agricultural income

(*g*) such other deductions as may be prescribed by rules made under section 50 of this Act

Provided always that no deduction shall be made under this clause if it has already been made under section 7 of this Act or in the assessment under the Indian Income-tax Act

Provided further that in cases of agricultural income from cultivation and manufacture of tea the agricultural income for the purposes of this Act shall be deemed to be that portion of the income from cultivation, manufacture and sale which is agricultural income within the meaning of the

Indian Income-tax Act and shall be ascertained by computing the income from the cultivation, manufacture and sale of tea as computed for Indian Income-tax from which shall be deducted any allowances by this Act authorised in so far as the same shall not have been allowed in the computation for the Indian Income-tax Act. XI of 19

Liability of the husband or father for income of the wife or minor child.

[1][8A. The total agricultural income of any individual shall, for the purpose of assessment, include :—

(*a*) so much of the total agricultural income of a wife (not living separately) or minor child of such individual as arises directly or indirectly—

(*i*) from the ownership of the wife or of the minor child in an estate, tenure, tenancy or holding of which the husband or the father, as the case may be, is a joint owner ;

(*ii*) from assets transferred directly or indirectly to the wife by such individual otherwise than for adequate consideration or in connection with an agreement to live apart ;

(*iii*) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration;

(*b*) so much of the total agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association of persons by such individual for the benefit of his wife or minor child or both.]

Exemption of charitable or religious trust.

9. (1) Any agricultural income derived from property held under a trust or other legal obligation wholly or partly for religious or charitable purposes shall, to the extent it is applied or finally set apart for the aforesaid purposes, not be liable to income-tax under this Act.

(2) In this section, purposes of a charitable nature include relief of the poor, education, medical relief and advancement of any other object of general public utility.

Exclusion of agricultural income of certain wakfs.

10. All agricultural income of Muslim Trusts referred to in section 3 of the Musalman Wakf Validating Act, 1913, created before the commencement of this Act, shall be excluded from the operation of this Act: Act VI 1913.

Provided that the share of a beneficiary under a trust under the aforesaid Act, of the description commonly known as Wakf-alal-aulad shall not be exempted and the basis of the taxation shall be the share of each beneficiary :

Provided further that if a beneficiary's income is assessable under the abovementioned proviso the [2][Superintendent of taxes or Agricultural Income-tax Officer] may require the Mutawali to deduct the amount of the tax from the payment to be made to the beneficiary and pay the same to the [2][Superintendent of Taxes or Agricultural Income-tax Officer]. On such requisition the Mutawali shall be liable to pay the same.

[1]Inserted by Assam Act XXXVI of 1950.

[2]Subs. by Assam XXV of 1954 Sec. 2 (i).

Assessment of a Hindu undivid d or joint family

11. The total agricultural income of a Hindu undivided or joint family shall be treated as the income of one individual and assessed as such

Provided that if a Hindu undivided or joint family consists of brothers only, or of a brother or brothers and the son or sons of a brother or brothers, the total agricultural income of the family shall be assessed—

(*a*) at the rate applicable to the share of a brother if such share exceeds [1][Rs 6,000],

(*b*) at [1][2 naya paisa] in the rupee, if the share of a brother is [1][Rs 6,000] or less

Explanation —For the purposes of this section,—

(1) the expression ' share of a brother ' in the case of a joint family governed by Mitakshara law means the portion of the total agricultural income of a Hindu undivided or joint family which would have been allotted to a broth-- f -- f L of such family ha ordinary rules of I mily, on the day before the assessment is made, and

(2) "son" includes a son's son [2][and brother includes brother's widow]

Assessment of tax on land held for the benefit of several persons

12. (1) Save as provided in sections 10, 13 and 14 if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of a beneficiary or beneficiaries, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such person had held the land exclusively for his own benefit and agricultural income-tax so payable shall be assessed on the person holding such land, and he shall be liable to pay the same

(2) Any person holding such land shall be entitled before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount, of agricultural income-tax at the rate at which the agricultural income is or will be assessed under sub-section (1)

Explanation —In this section "beneficiary" means a person entitled to a portion of the agricultural income derived from the land.

Assessment of tax on common manager, receiver etc

13 Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator, or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom the aggregate of sums payable as agricultural income tax by each person on the

[1]Substituted by Assam XIII of 1959

[2]Added by Assam Act XXXVI of 1950

agricultural income derived from such land and received or receivable by him shall be asssessed on such common manager, receiver, administrator or the like and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

Court of Wards, etc.

14. In the case of agricultural income taxable under this Act, which is received by the Court of Wards, the Administrator General, or Official Trustee the tax shall be levied upon and be recoverable from such Court of Wards, Administrator General or Official Trustee in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly.

Residuary provision for computation and recovery of tax in certain cases.

[**14A.** (1) In any case covered by sections 13 and 14 where any agricultural income or any part thereof is not specifically received on behalf of any one person, or where the individual shares of the persons on whose behalf they are received are indeterminate or unknown, the tax shall be levied and be recoverable at the rate applicable to the total amount of such income.

(2) Nothing contained in sections 13 and 14 shall prevent either the direct assessment of the person on whose behalf agricultural income therein referred to is received or the recovery from such person of the tax payable in respect of such income.][1]

Exemption in case of life insurances.

15. (1) (*a*) Agricultural income-tax shall not be payable by an assessee in respect of any sum paid by him out of his total agricultural income to effect an insurance on his own life or on the life of his wife or his child or children, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any provident fund to which the Provident Funds Act, 1925, applies: XIX 1925.

Provided that agricultural income-tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable if such deduction had not been made.

(*b*) Nothing in this sub-section shall be deemed to entitle an assessee, who is assessed to income-tax under the Indian Income-tax Act, as amended up-to-date, to claim a deduction in respect of any sum paid by him, as mentioned in clause (*a*), if such sum was exempted under section 15 of the said Act. XI of 1

(2) Where the assessee is a Hindu undivided or joint family there shall be exempted under sub-section (1) any sum paid to effect an insurance on the life of any male member of the family.

(3) The aggregate of any sums exempted under this section shall not exceed one-sixth of the total agricultural income of the assessee.

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[1]Inserted by Assam Act XXXVI of 1950.

16. [(1) Where any assessee sustains a loss of profits or gains in any year under any of the items mentioned in sub-clauses (1) and (2) of clause (*a*) of section 2, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other item in that year][1] Carrying forward of loss of profits or gains

[2](2) Where any assessee sustains a loss of profits or gains in any year being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940, the loss shall be carried forward to the following year and set off against the profits or gains if any of the assessee from agricultural income for that year and if it cannot be wholly so set off the amount of loss not so set off shall be carried forward to the following year and so on but no loss shall be carried forward for more than six years [3][* * * *]

CHAPTER III

[4][TAXING AUTHORITIES]

[5][**18.** (1) There may be all or any of the following classes of Taxing Authorities for the purposes of this Act, namely — Taxing Authorities

(*a*) Board of Agricultural Income-tax,

(*b*) Commissioner of Taxes,

(*c*) Deputy Commissioner of Taxes,

(*d*) Assistant Commissioner of Taxes

(*e*) Agricultural Income tax Officer,

(*f*) Superintendent of Taxes,

(*g*) Additional Superintendent of Taxes,

(*h*) Inspector of Taxes, and

(*i*) Agricultural Income-tax Inspector

(2) The authorities specified in sub section (1) shall be appointed by the State Government and shall exercise the powers and perform the duties within the prescribed areas and their relation with one another shall be such as may be prescribed

(3) The State Government may authorise the Commissioner to appoint Sub-Inspectors of Taxes to assist the authorities specified in sub section (1)

(4) The State Government may, instead of appointing any person under sub section (1), invest, by notification in the official Gazette, any officer or officers to exercise any power under this Act and perform such functions in respect of such classes of persons or such classes of income and for such areas as may be specified in the notification]

[1]Inserted by Assam Act XXXVI of 1950

[2]Original Section 16 was renumbered as Sub-section (2) of that Section, *vide ibid*

[3]Section 17 was deleted by Assam Act XIII of 1959

[4]Substituted by Assam XXV of 1954, Sec 2 (iii)

[5]Substituted by Sec 4 *ibid*

CHAPTER IV

ASSESSMENT, DEDUCTIONS AND EXEMPTIONS

Return of Income.

19. (1) The [1][Superintendent of Taxes or Agricultural Income-tax Officer] shall, on or before the first day of May or for the year commencing 1st April, 1939 any later day notified by Government in each year, give notice by publication in the press and otherwise in the manner prescribed by rules, requiring every person whose agricultural income exceeds the limits of taxable income prescribed in section 6 to furnish, within such period not being less than thirty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (alongwith such other particulars as may be required by the notice) his total agricultural income during the previous year :

Provided that the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may in his discretion extend the date for the delivery of the return in the case of any person or class of persons ;

(2) In the case of any person whose total agricultural income is, in the opinion of the [1][Superintendent of Taxes or Agricultural Income-tax Officer], of such amount as to render such person liable to payment of agricultural income-tax for any financial year, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may serve in that financial year, a notice in the prescribed form upon him requiring him to furnish, within the prescribed period, a return in the prescribed form and verified in the prescribed manner setting forth his total agricultural income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1), or sub-section (2) or, having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made and any return so made shall be deemed to be made in due time under this section.

Assessment.

20. (1) If the [1][Superintendent of Taxes or Agricultural Income-tax Officer] is satisfied that a return made under section 19 is correct and complete he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the [1][Superintendent of Taxes or Agricultural Income-tax Officer] has reason to believe that a return made under section 19 is incorrect or incomplete, he shall serve on the person who made the return, a notice requiring him, on the date to be specified therein, either to attend at the office of the [1][Superintendent of Taxes or Agricultural Income-tax Officer] or to produce or to cause to be there produced any evidence on which such person may rely in support of the return.

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[1]Substituted by Assam XXV of 1954 Sec. 2(i).

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] after hearing such evidence as such person may produce and such other evidence as the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may require on specified points, shall by an order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on such assessment

Provided that the [1][Superintendent of Taxes or Agricultural Income-tax Officer] shall not require the production of any accounts relating to a period more than three years prior to the previous year

(4) If the principal officer of any company or other person fails to make a return under sub-section (1) or, sub-section (2) of section 19, as the case may be or, having made the return, fails to comply with all the terms of the

of such assessment

Provided that before making such assessment [1][Superintendent of Taxes or the Agricultural Income-taxe Officer] may allow the assessee such further time as he thinks fit to make he return or comply with the term s of the notice or to produce the evidence

[2][**20A.** [illegible] of
deemed to [illegible] d
and the bu [illegible] or
in any yea
the basis of the agricultural income received or deemed to be received during the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the agricultural income received or deemed to be received in the previous yea- Every person who was a partner of such firm or member of such association at the time of such discontinuance shall be jointly and severally liable to assessment on such agricultural income and for the amount payable as tax, and all the provisions of the Act shall, so far as may be, apply accordingly

(2) Any person [illegible]
give to the [1][Superinte [illegible]
Tax Officer] notice
days thereof, and where any person fails to give the notice required by this sub-section, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the firm or

[1]Substituted by Assam XXV of 1954 Sec. 2(1).

[2]Inserted by Assam Act XXXVI of 1950.

association of individuals up to the date of the discontinuance of its business].

Cancellation of assessment in certain cases and fresh assessment thereof.

21. Where an assessee, or in case of a company the principal officer thereof, within one month from the service of a notice of demand issued as hereinafter provided satisfies the [1][Superintendent of Taxes or Agricultural Income-tax Officer] that he was prevented by sufficient cause from making the return required by section 19 or that he did not receive the notice issued under sub-section (2) of section 19 or sub-section (2) of section 20 or that he had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of the last mentioned notices the [1][Superintendent of Taxes or Agricultural Income-tax Officer] shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 20.

Penalty for concealment of income.

22. (1) If the [1][Superintendent of Taxes or Agricultural Income-tax Officer], or the Assistant Commissioner of Taxes [2][or the Deputy Commissioner of Taxes], the Commissioner of Taxes in the course of any proceeding under this Act, is satisfied that an assessee,—

(*a*) has without reasonable cause failed to furnish the return of his total income which he was required to furnish under sub-section (1) or sub-section (2) of section 19 or has without reasonable cause failed to furnish it within the time allowed and in the manner required in the provisions made under the abovementioned sub-sections, or

(*b*) has concealed the particulars of his income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount,

he may direct that the assessee shall pay by way of penalty in the case referred to in clause (*a*), in addition to the amount of agricultural income-tax payable by him a sum not exceeding that amount, and in the case referred to clause (*b*) in addition to any tax paid by him, a sum not exceeding the amount of agricultural income-tax, which would have been avoided if the income so returned by him had been accepted as the correct income :

Provided that—

(*a*) no penalty for failure to furnish the return of his total agricultural income shall be imposed on an assessee whose total agricultural income is less than rupees five thousand unless he has been served with a notice under sub-section (2) of section 19;

(*b*) where a person has failed to comply with a notice under sub-section (2) of section 19 or under section 30 and proves that he has no income liable to tax,

[1]Substituted by Assam XXV of 1954 Sec. 2(i).

[2]Inserted by Assam XXV of 1954 Sec. 5(i).

no penalty shall be imposed under this sub section,

(c) no penalty shall be imposed under this sub section upon any person assessable as the agent of any person not resident in Assam for failure to furnish the return required under section 19 unless a notice under sub section (2) of that section has been served on him,

(d) no order under this section shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard

Provided further that no prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section

(2) If the [1][Commissioner of Taxes], [2][or the Deputy Commissioner of Taxes] or the [1][Assistant Commissioner of Taxes] makes an order under sub section (1), he shall forthwith send a copy of the same to the [1][Superintendent of Taxes or Agricultural Income-tax Officer] in whose jurisdiction the assessee concerned resides

Notice of Demand

23. [3][Where any agricultural income tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable]

Appeal against assessment under this Act

24 [3](1) Any assessee objecting to the amount of income or the amount of tax as determined under section 20 or denying his liability to be assessed under this Act or objecting to any order passed against him under section 21 or 22 made by the [1][Superintendent of Taxes or Agricultural Income-tax Officer], may appeal to the [1][Assistant Commissioner of Taxes] against the assessment or against such order

Provided that no appeal shall lie in respect of an assessment made under sub section (4) of section 20

(2) Every appeal under this section shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to, or of the order under section 21, as the case may be, but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period, if he is satisfied that the appellant has sufficient cause for not presenting it within the prescribed period

(3) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner

[1]Substituted by Assam XXV of 1954 Sec 2(1)

[2]Inserted by Assam XXV of 1954 Sec 5(ii)

[3]Substituted by Assam Act XXXVI of 1950 for the original Section 32

(4) The appellate authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make such further enquiry as he thinks fit.

(5) In disposing of an appeal, the [1][Assistant Commissioner of Taxes] may in the case of an order of assessment:—

(*a*) confirm, reduce, enhance or annul the assessment ;

(*b*) set aside the assessment and direct the [1][Superintendent of Taxes or Agricultural Income-tax Officer] to make a fresh assessment after such further enquiry as may be directed ; or, in the case of an order under section 21 or 22 confirm, cancel or vary such order :

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

Appeal against order of refusal of refund.

25. The provisions of the foregoing section shall, so far as may be, apply to any order of refusal of any refund admissible under the rules prescribed under section 50.

Appeal against order of an [1][Assistant Commissioner of Taxes.]

26. (1) Any assessee objecting to an order passed by an [1][Assistant Commissioner of Taxes] under section 22 or to an order enhancing his assessment under sub-section (5) (*a*) of section 24, may appeal to the [1][Commissioner of Taxes] within thirty days of the date on which he was served with the notice of such order.

(2) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of the appeal [1][the Commissioner of Taxes] shall, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

Powers of [2][revision].

27. (1) The [1][Commissioner of Taxes] may on his own motion or on petition call for the records of any proceedings under this Act which have been taken by any authority subordinate to him.

(2) On receipt of the record the [1][Commissioner of Taxes] may make such enquiry, or cause such inquiry to be made, and subject to the provisions of this Act, may pass such orders thereon, as he thinks fit :

Provided that he shall not pass any order prejudicial to the assessee without hearing him or giving him a reasonable opportunity of being heard.

[1]Substituted by Assam XXV of 1954 Sec. 2(i).

[2]Substituted by Assam Act XXXVI of ...

(3) Any order passed by the [1][Commissioner of Taxes] under sub-section (2) shall be final, subject to any reference that may be made to the High Court under section 28

[2][Statement of case by the Board to High Court]

28. (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VII, a question of law arises, the Board may, either of its own motion or on reference from any [3][taxing authority] [4][* *] draw up a statement of the case and refer it with its own opinion to the High Court

(2) Within sixty days of the date on which he is served with notice of an order under section 24 or of an order under section 27 enhancing an assessment or otherwise prejudicial to him, the assessee in respect of whom the order or decision was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed require the Board to refer to the High Court any question of law arising out of such order or decision, and the Board shall, within sixty days of the receipt of such application, draw up a statement of the case, and refer it with its own opinion thereon to the High Court

Provided that a reference shall lie from an order under section 27 only on a question of law arising out of that order itself, and not on a question of law arising out of a previous order under section 24 revised by the order under section 27

Provided further that, if, in exercise of his power of revision under section 27, the revisional authority decides the question, or if the Board rejects the application on the ground that it is time-barred or otherwise incompetent, or if, in exercise of its power under sub-section (3), the Board refuses to state the case, the assessee may, within thirty days from the date on which he receives notice of the order passed by the revisional authority or by the Board, as the case may be, withdraw his application, and if he does so, the fee paid shall be refunded

(3) If on any application being made under sub-section (2), the Board refuses to state the case on the ground that no question of law arises the assessee may apply, within six months of the date on which he is served with the notice of the refusal, to the High Court, and the High Court, if it is not satisfied with the correctness of the decision of the Board, may require the Board to state the case and to refer it, and, on receipt of any such requisition, the Board shall state and refer the case accordingly

(4) If, on any application being made under sub-section (2), the Board rejects it on the ground that it is time-barred, the assessee may within sixty days from the date on which he is served with the order of the Board, apply to the High Court, and the High Court, if it is not satisfied with the

[1]Substituted by Assam XXV of 1954 Sec 2 (i)

[2]Substituted by Assam Act XXXVI of 1950 for the words "Reference of the case by Commissioner of Agricultural Income-tax to High Court"

[3]Substituted by Assam XXV of 1954 Sec 2(iii)

[4]Deleted by Assam XXV of 1954 Sec 6

correctness of the decision of the Board, may require the Board to treat the application as made within the time allowed under sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Board to make such additions thereto or such alterations therein as the Court may direct in that behalf.

(6) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Board a copy of such judgment, under the seal of the Court and signature of the Registrar, and the Board shall dispose of the case accordingly, or, if the case arose on a reference from any [1][taxing authority] [2][* *] shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(7) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Board may allow.

(9) Section 5 of the Indian Limitation Act, 1908 shall apply to an application to the High Court by an assessee under sub-section (3) or sub-section (4). IX of 19

Appeal against any judgment of the High Court.

29. (*i*) An appeal shall lie to [3][the Supreme Court of India] from any judgment of the High Court delivered in a reference made under the foregoing section in any case which the High Court certifies to be a fit one for appeal to [3][the Supreme Court of India].

(*ii*) The provisions of the Code of Civil Procedure relating to the appeals to [3][the Supreme Court of India] shall so far as may be, apply in the case of appeals under this section in like manner as they apply in cases of appeals from decrees of High Court:

Provided that nothing in this sub-section will be deemed to affect the provisions of sub-section (6) or sub-section (8) of the foregoing section :

[1] Substituted by Assam XXV of 1954 Sec. 2(iii).

[2] Deleted by Assam XXV of 1954 Sec. 6.

[3] Substituted by Section 13 of Assam Act XXXVI of 1950 for the words "His Ma in Council".

Provided further that the High Court may on a petition made for the execution of the order of[1] [the Supreme Court of India] in respect of any costs awarded thereby transmit the order for execution to any Courts subordinate to the High Court

(*iii*) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of[1] [the Supreme Court of India] in the manner provided in sub-sections(6) and (8) of the foregoing section in the case of a judgment of the High Court

Income escaping assessment

30. If for any reason any agricultural income chargeable to agricultural income-tax has escaped assessment for any financial year, or has been assessed at too low a rate [3][or has been the subject of undue relief under this Act] the [4][Superintendent of Taxes or Agricultural Income-tax Officer] may, at any time within three years of the end of that financial year, serve on the person liable to pay agricultural income-tax on such agricultural income or, in the case of a company on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 19, and may proceed to assess or re assess such income, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be

Provided further that when the income, profits or gains concerned are agricultural income, profits or gains liable to assessment for a year ending prior to the commencement of this Act, or where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person, this sub-section shall have effect as if for the period of three years a period of one year were substituted

Rectification of mistakes

31. (1) The authority which passed an order on appeal or [5][revision] may, at any time within three years from the date of such order, and the [4][Superintendent of Taxes or Agricultural Income-tax Officer] may at any time within three years from the date of any assessment order passed by him, of his own motion, rectify any mistake apparent from the record of the appeal or assessment, as the case may be, and shall within the like period rectify any such mistake as has been brought to his notice by an assessee

Provided that no such rectification shall be made having the effect of enhancing the assessment [3][or reducing the refund], unless the appellate [3][*or revisional*] *authority* or the [4][Superintendent of Taxes or Agricultural Income-tax

[1]Substituted by Section 13 of Assam Act XXXVI of 1950 for the words "His Majesty in Council"

[2]Subs by Assam XXV of 1954 Sec 2(iii)

[3]Inserted by Assam Act XXXVI of 1950

[4]Substituted by Assam XXV of 1954 Sec 2(i)

[5]Substituted by Assam Act XXXVI of 1950 for the word "review"

Officer], as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard ;

(2) Where any such rectification has the effect of reducing the assessment, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] shall make any refund which may be due to such assessee ;

(3) Where any such rectification has the effect of enhancing the assessment [2][or reducing the refund] the [1][Superintendent of Taxes or Agricultural Income-tax Officer] shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section [3][23], and the provisions of this Act shall apply accordingly.

Tax to be [4][calculated] to the nearest anna.

32. In the determination of the amount of agricultural income-tax or of a refund payable under this Act, [5][if the amount is not a multiple of five naye paise, it shall be rounded off to the next higher multiple of five naye paise.]

Power to take evidence on oath.

33. (1) The [1][Commissioner of Taxes], [6][The Deputy Commissioner of Taxes], the [1][Assistant Commissioner of Taxes], the [1][Superintendent of Taxes or Agricultural Income-tax Officer] shall for the purpose of this Chapter, have the same powers as are vested in a Court under the code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :— V of 19

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents; and

(*c*) issuing commissions for the examination of witnesses;

and any such proceeding before such Commissioner, [7][Deputy Commissioner] Assistant Commissioner or Income-tax Officer under this Chapter shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code. XLV 1860.

(2) If any person assessed to agricultural income-tax in respect of agricultural income mentioned in sub-clause (1) of clause (*a*) of section 2 produces before the [1][Superintendent of Taxes or Agricultural Income-tax Officer] for the purpose of calculating his agricultural income any rent roll or other similar papers showing the amount of rent received by him, he shall not be entitled to recover or to institute a suit to recover rent due to him for any tenure or holding included in such return at a rate higher than the rate mentioned in such return as payable for such tenure or holding, unless the rent shown in such return has, since the date of the return, been lawfully enhanced.

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[1]Substituted by Assam XXV of 1954 Sec. 2(i).

[2]Inserted by Assam Act XXXVI of 1950.

[3]Substituted for the figure "19" by Assam Act XXXVI of 1950.

[4]Substituted for the word "collected" by Assam Act XXXVI of 1950.

[5]Substituted by Assam Act XIII of 1959.

[6]Inserted by Assam XXV of 1954 Sec. 7(i).

[7]Inserted by Assam XXV of 1954 Sec. 7(ii).

(3) Any person who has produced a rent roll referred to in sub-section (2) may, within one year of producing such roll, apply to the [1][Superintendent of Taxes or Agricultural Income-tax Officer] to make any correction therein, and the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may, if he is satisfied that such correction should be made, pass an order correcting such rent roll

(4) Where the [1][Superintendent of Taxes or Agricultural Income-tax Officer] passes any order under sub-section (3), he may assess under section 30 any income escaping assessment by reason of the original incorrectness of any entry corrected

Power to call for information

34. The [1][Assistant Commissioner of Taxes] or the [1][Superintendent of Taxes or Agricultural Income tax Officer] may, for the purposes of this Act —

(1) require any firm or Hindu undivided or joint family to furnish him with a return of the names of members of the firm or of the names of the manager or the brothers or sons of brothers of the family as the case may be and of their addresses ,

(2) require any person whom he has reason to believe to be a trustee guardian or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses

Disclosure of information by Public Servant

[2][**34A** (1) All particulars contained in any statement made, return furnished or, accounts or documents produced in accordance with this Act or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act other than proceedings before a Criminal Court, or in any record of any proceedings under this Act, shall save as provided in sub section (3) be treated as confidential and notwithstanding anything contained in
I of 1872 the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any public servant to produce before it any such statement, return, accounts, document or record or any part thereof, or to give evidence before it in respect thereof

(2) If, save as provided in sub-section (3), a public servant discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to fine

Provided that it shall be a defence for the accused to prove that such disclosure was made before this Act came into force

[1]Subs by Assam XXV of 1954 Sec 2(1)
[2]Inserted by Assam Act XXXVI of 1952

(3) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1) for the purposes:—

(*a*) of a prosecution under the Indian Penal Code, 1860 in respect of any such statement, return, accounts, document or evidence; XLV 1860.

(*b*) of a prosecution under this Act;

(*c*) of assessment to an officer of the Central Government as may be necessary for the purpose of enabling the Central Government to levy or realise any income-tax imposed by it;

(*d*) of assessment to any officer of the State Government as may be necessary for the purpose of enabling such officer to levy or realise any tax imposed by the State Government.]

CHAPTER V

RECOVERY OF TAX AND PENALTIES

Tax when payable.

35. (1) Any amount specified as payable in a notice of demand under section 23 or an order under sections 24, 26 or 27 shall be paid within the time, at the place, and to the person mentioned in the notice or order or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order.

(2) If the demand is not paid on or before the date fixed under sub-section (1) then the assessee shall be deemed to be in default :

Provided that when an assessee has presented an appeal under section 24, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may, in his discretion, treat the assessee as not being in default as long as such appeal is undisposed of, and if in any such case the [1][Superintendent of Taxes or Agricultural Income-tax Officer] considers that the assessee should be held to be in default, he shall refer the matter to the authority to whom the appeal was presented for orders, and shall treat the assessee as not being in default until the said authority passes orders to the contrary.

Mode and time of recovery.

36. (1) When an assessee is in default in making a payment of agricultural income-tax, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may, in his discretion, direct that, in addition to the amount of arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

[1]Subs. by Assam XXV of 1954 Sec. 2 (i).

(2) For the purpose of sub-section (1) the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may direct the recovery of any sum less than the amount of arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of arrears payable

(3) When an assessee is in default, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee and the Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as a public demand payable to the Collector

VII of 1913 (4) (*a*) When agricultural income-tax is payable by a trustee, or, is under section 10 payable by a *mutawali* of a *Musalman Wakf* referred to in section 3 of the Musalman Wakf Validating Act, 1913 and such trustee or *mutawali* is in default, the [1][Superintendent of Taxes or Agricultural Income-tax Officer] may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector on receipt of such certificate shall proceed to recover from such trustee or *mutawali* the amount specified therein as a public demand

Bengal III of 1913 Provided that, notwithstanding anything to the contrary contained in section 14 of the Bengal Public Demands Recovery Act, 1913, any land held by such trustee or *mutawali* as such shall not be attached or sold in execution of such certificate but such arrears may be realised from the income of the trust or *Wakf* estate by the appointment of a receiver of any property of the trust or *Wakf*

V of 1908 (*b*) The provisions of Order XL of the Code of Civil Procedure, 1908, shall apply to a proceeding under this sub-section, and the Certificate Officer shall be deemed to be a Civil Court within the meaning of the said Order XL

(5) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of three years after the date on which the original demand fixed under section 23 falls due, or after the expiration of three years after the date on which any appeal [or reference][2] relating to such sum has been disposed of whichever date is later

37. Any sum imposed by way of penalty under the pro- visions of section 22 or section 36 shall be recoverable in th manner provided in this Chapter for the recovery of f tax

Right, title and interest of members of Hindu undivided or joint family or of other persons on whose behalf property is held to pass to the purchaser when property is sold for realisation of arrears of tax.

38. Notwithstanding anything contained in sections 20 and 21 of the Bengal Public Demands Recovery Act, 1913:— Bengal III of 1

(*a*) Where any property of a Hindu undivided or joint family is sold under the said Act for the realisation of arrears of agricultural income-tax, the right, tiltle and interest of all members of such family in the property shall pass to the pruchaser;

(*b*) Save as provided in sub-section (4) of section 36 where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the land so held by him may be attached and sold for the realisation of such arrears, and on such sale, the right, title and interest of such persons in the said land shall pass to the purchaser.

CHAPTER VI

REFUNDS

Refunds.

39. Refunds shall be admissible under this Act. The circumstances and the manner in which refund shall be allowed shall be prescribed by rules under section 50.

CHAPTER VII

OFFENCES AND PENALTIES

False statement in declaration.

40. If any person makes a statement in a verification mentioned in section 19 **[1] 24 [26 or 27][2] which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code. XLV 1860.

Failure to furnish return or to supply information.

41. If any person fails, without reasonable cause or excuse, to furnish in due time any of the returns mentioned in section 19 or section 34, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

Prosecution to be at the instance of the Assistant Commissioner.

42. (1) A person shall not be proceeded against for an offence under section 40 or 41 except at the instance of the [3][Deupty Commissioner of Taxes or when there is no Deputy Commissioner of Taxes, the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes, in this behalf].

(2) Before instituting proceedings against any person under sub-section (1) the [3][Deputy Commissioner of Taxes or when there is no Deputy Commissioner of Taxes, the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes in this behalf] shall call upon such person

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[1] The words "or section" omitted by Assam Act XXXVI of 1950.

[2] Inserted by Assam Act XXXVI of 1950.

[3] Inserted by Assam XXV of 1954 Sec. 8.

to show cause why proceedings should not be instituted against him

(3) The [1][Deputy Commissioner of Taxes or when there is no Deputy Commissioner of Taxes, the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes in this behalf] may stay any such proceedings or compound any such offence

Chapter VIII

MISCELLANEOUS

Place of assessment

43 (1) An assessee shall, subject to any orders passed under sub-section (2), be assessed by the [2][Superintendent of Taxes or Agricultural Income tax Officer] of the area in which is situated the land from which the greater part of the agricultural income in respect of which he is assessed is derived

(2) (*a*) An assessee may, on receipt of the first notice served on him under sub-section (2) of section 19 apply to the [2][Superintendent of Taxes or Agricultural Income-tax Officer] by whom such notice is served to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the [3][State] of Assam, and such [2][Superintendent of Taxes or Agricultural Income tax Officer] may pass an order that the assessee shall be assessed at the place specified in the application, the said place being situated in the [3][State] of Assam, or refer the matter to the [1][Deputy Commissioner of Taxes or when there is no Deputy Commissioner of Taxes the Assistant Commissioner of Taxes empowered by the Commissioner of Taxes in this behalf] whose decision shall be final,

(*b*) Where an order is passed under clause (*a*) of sub-section (2), the assessee shall not be entitled to make any further application to change his place of assessment

Provided that the [2][Superintendent of Taxes or Agricultural Income-tax Officer] may allow the assessee to be assessed at any other place upon such conditions as he thinks fit

(3) Notwithstanding anything contained in this section, every [2][Superintendent of Taxes or Agricultural Income tax Officer] shall have all the powers conferred by or under this Act on the [2][Superintendent of Taxes or Agricultural Income tax Officer] in respect of any agricultural income derived from land situated within the area to which he is appointed

Bar of suits in Civil Courts

44. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any

[1] Inserted by Assam XXV of 1954 Sec 8

[2] Substituted by Assam XXV of 1954 Sec 2(1)

[3] Substituted by A O 1950 for "Province"

officer of the [Government][1] for anything in good faith done or intended to be done under this Act.

Computation of period of limitation.

45. In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Appearance by authorised representative.

46. Any assessee, who is entitled or required to attend before any [2][taxing authority] in connection with any proceeding under this Act, may [except when required under Section 33 to attend personally for examination on oath or affirmation][3] attend either in person or by any person duly authorised by him in writing in this behalf.

Receipts to be given.

47. A receipt shall be given for any money paid or recovered under this Act.

Indemnity

48. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

Powers of income-tax authorities to call for papers or documents.

49. Nothing in this Act shall be deemed to authorise any of the income-tax authorities mentioned in section 18 to call for any papers or documents for the purpose of ascertaining agricultural income or for any other purpose under this Act, except the papers noted below—

(1) papers showing the amount of rent which accrued due in the previous year;

(2) papers showing the actual receipt of agricultural income by an assessee in the previous year;

(3) ledgers, account books and vouchers showing the actual expenditure incurred for which a deduction or exemption is claimed under this Act :

Provided that for the purposes of ascertaining agricultural income in regard to tea, the aforesaid [2][taxing authorities] may call for any papers produced or liable to be produced before the [1][taxing authorities] administering the Indian Income-tax Act.

Delegation of power.

[4][49A. The Commissioner of Taxes may delegate, by notification in the official Gazette, any of his powers under sections 26 and 27 to the Deputy Commissioner of Taxes.]

Power to make rules.

50. (1) The [State][5] Government may, subject to previous publication, make rules[6] for carrying out the

[1] Substituted by A. O. 1950 for "Crown".

[2] Subs. by Assam XXV of 1954 Sec. 2 (iii).

[3] Inserted by Assam Act XXXVI of 1950.

[4] Inserted by Assam XXV of 1954 Sec. 9.

[5] Substituted by A. O., 1950 for "Provincial".

[6] For rules *see* Notification No. 3581 F(b), dated 16th December, 1939.

purposes of this Act, and such rules may be made for the whole of the [State][1] or such part or parts thereof as may be specified.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which the net income from land referred to in sub section (1) of section 8 shall be calculated,

(*b*) prescribe the powers and duties of the income-tax authorities appointed under sub-section (2) [2][and sub-section (3)] of section 18, the area in which such powers shall be exercised and performed, the relation of such authorities to each other and the conditions of service of such authorities,

(*c*) prescribe the date before which the return shall be submitted under sub section (1) of section 19, the form of such returns and the manner in which they shall be verified,

(*d*) prescribe the period within which returns referred to in sub-section (2) of section 19 shall be submitted, the form of such returns and the manner in which they shall be verified ,

(*e*) prescribe the form of the notice of demand mentioned in section 23,

(*f*) prescribe the form in which appeals under sections 24 and 26 shall be presented and the manner in which they shall be verified ,

(*g*) prescribe the fee mentioned in sub-section (2) of section 28,

(*h*) prescribe the form of the notice of demand mentioned in sub-section (3) of section 31,

(*i*) prescribe the method by which the assessment of agricultural income as determined under section 7 or section 8 shall be made in the case of an assessee who does not reside in the [State][1] of Assam, or of an assessee who ordinarily resides in the [State][1] of Assam, and is temporarily absent therefrom ,

(*j*) prescribe the manner in which the tax shall be payable where the assessment is made on the agricultural income of a Hindu undivided or joint family and a partition of the property of such family has been effected after the date of such assessment ;

(*k*) prescribe the manner in which the tax payable by an assessee who has died since the date of the assessment made on him shall be payable;

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[1] Substituted by A O , 1950 for "Province".

[2] This section was inserted by Assam XXV of 1954 Sec 10.

(*l*) provide for the circumstances in which refunds of the tax paid under this Act shall be made and prescribe the manner in which such refunds shall be made; and

(*m*) provide for any other matter which by this Act has to be or may be prescribed.

Rates of Agricultural Income tax —The rates of Agricultural Income tax for the year inning on the 1st April, 1959, shall, for the purposes of Sections 3 and 6 of the Assam Agricultural Income tax Act, 1939 (Assam Act IX of 1939), be the rates given below —

A In the case of every Hindu undivided or joint family —

(a) At the rate applicable, under the list of rates contained in paragraph B below to a sum equal to the share of a brother if such share exceeds Rs 6,000,

(b) At two naye paise in the rupee, if the share of a brother is Rs 6,000 or less

B In the case of every individual, firm and other Association of persons other than mpanies —

	Rate
(a) On the first Rs 1,500 of total income	Nil
(b) On the next Rs 3,500 of total income	Four naye paise in the rupee.
(c) " "	Eight naye paise in the rupee
(d)	Twelve naye paise in the rupee
(e)	Fifteen naye paise in the rupee
(f)	Nineteen naye paise in the rupee
(g)	Twenty four naye paise in the rupee
(h) On the next Rs 30,000 of total income	Thirty naye paise in the rupee.
(i) On the next Rs 50,000 of total income	Thirty four naye paise in the rupee
(j) On the balance of total income .	Thirty eight naye paise in the rupee

C In the case of every Company —

(a) the total income of which does not exceed Rs 1,00,000	
On the whole of total income	Thirty four naye paise in the rupee
(b) the total income of which exceeds Rs 1,00,000 On the whole of total income	Thirty eight naye paise in the rupee

Provided always that—

(i) no Agricultural Income-tax shall be payable on a total agricultural income which es not exceed Rs 3,000 , and

(ii) the Agricultural Income tax payable shall in no case exceed half the amount by hich the total agricultural income exceeds Rs 3 000

THE BIHAR AGRICULTURAL INCOME TAX ACT, 1948

[BIHAR ACT XXXII OF 1948]

An act to consolidate and amend the law relating to the imposition of a tax on agricultural income in the Province of Bihar.

WHEREAS it is expedient to consolidate and amend the law relating to the imposition of a tax on agricultural income arising from lands situated in the Province of Bihar;

IT is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Bihar Agricultural Income-tax Act, 1948.

(2) It extends to the whole of the [1][State] of Bihar.

(3) It shall be deemed to have come into force on the 1st day of April, 1948.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agricultural income" means—

(1) any rent or income derived from land which is used for agricultural purposes, and is either assessed to land-revenue in Bihar or subject to a local rate assessed and collected by officers of the [2][Government] as such;

(2) any income derived from such land by——

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (*ii*) ;

[1] Subs. by para. 4(1) of the A. L. O. for "Province".

[2] Subs. by *ibid.*, for "Crown".

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (*ii*) and (*iii*) of clause (2) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent in-kind by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building,

(*b*) "agricultural income-tax" means the tax payable under this Act,

(*c*) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under sub-section (2) of section 18,

(*d*) "agricultural year" means, where the Bengali year prevails, the year commencing on the first day of *Baisakh*, where the *Fasli* or *Amli* year prevails, the year commencing on the first day of *Asin*, and, where any other year prevails for agricultural purposes, that year,

(*e*) "assessee" means a person by whom agricultural income-tax is payable,

(*f*) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Agricultural Income-tax under sub-section (2) of section 18,

(*g*) "Board" means the Bihar Board of Agricultural Income-tax appointed under sub-section (2) of section 18,

(*h*) "Commissioner" means a person appointed to be a Commissioner of Agricultural Income-tax under sub section (2) of section 18,

(*i*) "company" means a company as defined in the
VII of 1913 Indian Companies Act, 1913, [1] or formed in pursuance of an Act of Parliament [2][of the United Kingdom] or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in India, whether incorporated or not, and whether its principal place of business is situate in India or not, which the Board may, by general or special order, declare to be a company for the purposes of this Act,

(*j*) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Agricultural Income-tax under sub section (2) of section 18,

[1]Printed in Central Acts, Vol VI, Ed 1951, P 239

[2]Ins by para 3 and Sch XVI of the A L O

(*k*) "firm" has the same meaning as in the Indian Partnership Act, 1932[1] IX of

(*l*) "landlord" has,—

(*i*) in its application to any area in which the Bihar Tenancy Act, 1885 [2] is in force, the meaning assigned to it by that Act; VIII o

(*ii*) in its application to any area in which the Chota Nagpur Tenancy Act, 1908 [3] is in force, the meaning as signed to it by that Act; and Ben. A of 190

(*iii*) its application to any area in the Santal Parganas, the meaning assigned to it by the Bihar Tenancy Act, 1885 [2] VIII c

(*m*) "person" means any individual, or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu Family, firm, [4] [or] company;

(*n*) "prescribed" means prescribed by rules made under this Act ;

(*o*) "previous year" means the agricultural year, the last day of which falls within the financial year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said financial year in respect of a period of twelve months ending on any date other than the last day of an agricultural year, then, at the option of the assessee, the twelve months ending on the day on which his accounts have been so made up :

Provided that where an assessee has once decided in any year that in his case the term 'previous year' shall be taken as a particular agricultural year or a period of twelve months, ending on a particular date, he shall not in future be entitled to vary in his case the meaning of the term 'previous year' except with the consent of the Agricultural Income-tax Officer and upon such conditions as the Agricultural Income-tax Officer may think fit :

Provided further that in the case of an assessee who keeps his accounts according to any agricultural year, the Board or such authority as the Board may authorise in this behalf may by order determine the period which shall be deemed to be the previous year for the purposes of the assessment for any financial year specified in the order;

1Printed in Central Acts, Vol. IX, Ed. 1951, V. 18.

2Printed in the Bihar Code, Vol. 1.

3*Ibid.*, Vol. II.

4Subs. by para. 3 and Sch. XVI of the A. L. O. for "or the Ruler of an Ac State".

(p) "principal officer" used with reference to an Acceding State, a company or any other association means—

(i) the manager or agent in Bihar of the Ruler of an Acceding State, or

(ii) the secretary, treasurer, manager or agent of the company or association, or

(iii) any person connected with the Acceding State, company or association upon whom the Agricultural Income tax Officer has served a notice of his intention of treating him as principal officer thereof,

(q) "received" used with reference to the receipt of the agricultural income by a person shall include—

(1) receipt by an agent or servant on behalf of a principal or master respectively,

(2) receipts by other persons which are deemed to be his receipts under the provisions of this Act, and

shall also include receipts of agricultural income by way of adjustment of accounts with any other person,

[1] [* * *]

(s) "schedule" means a schedule appended to this Act, and

(t) "total agricultural income" means the aggregate of the amounts of agricultural income of the different classes specified in sections 6 and 7 as determined respectively in the manner laid down in the said sections

Provided that where in any year under either head of agricultural income specified in sections 6 and 7 it is com-
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puted under the other head of agricultural income as that on which the agricultural income-tax is payable in the same year

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

3 Agricultural income tax shall be charged for each financial year in accordance with, and subject to the provisions of, this Act on the total agricultural income of the previous year of every person — Charge of agricultural income-tax

4 Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the [2][State] of Bihar — Application of the Act

[1]Clause (r) rep. by para 3 and Sch XVI of the A L O

[2]Subs by para 4(1) of the A L O for "Province"

Limits of taxable income and rates of tax.

[1][5. Agricultural income-tax shall be payable by a person whose total agricultural income of the previous year exceeds Rs. 3,000 and at the rate or rates specified in part I of the First Schedule.]

§[* * * * * *]

Determination of agricultural income mentioned in clause (*a*) (1) of section 2.

6. The agricultural income mentioned in sub-clause (1) of clause (*a*) of section 2 shall be deemed to be the sum raised in the previous year on account of agricultural income mentioned in the said sub-clause (1), after making the following deductions :—

(*a*) the sum actually paid in the previous year as revenue to the [2] [Government] or as rent to a landlord in respect of the land from which such agricultural income is derived ;

(*b*) the sum actually paid in the previous year in respect of such land as any local cess or rate collected under any Bengal Act or under any Bihar and Orissa Act or under any Bihar Act;

(*c*) a sum equal to 12-1/2 *per cent* of the total amount of the rent which accrued due in the previous year, in respect of the charges for collecting the same ;

(*d*) any sum paid in respect of the land from which such agricultural income is derived in accordance with rules made under the Bengal Irrigation Act, 1876 ; [3] — Ben. III of 1

(*e*) any rate paid under the Village Chaukidari Act, 1870 ,[4] or the Chota Nagpur Rural Police Act, 1914 , [5] in respect of any building used by the assessee as an office exclusively for the collection of the rents due in respect of the land from which such agricultural income is derived; — Ben Act. VI of 1870. B. & O. Act. I of 1914.

(*f*) any expense incurred on the maintenance of any irrigation or protective work constructed exclusively for the benefit of the land from which such agricultural income is derived;

[6]*Explanation.*—Maintenance includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes.

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[1]Substituted by s. 2 of the Bihar Agricultural Income-tax (Amdt.) Act, 1949, (B Act VII of 1949).

[2]Subs. by para. 4(1) of the A. L. O. for "Crown":

[3]Printed in the Bihar Code, Vol. II.

[4]*Ibid.*

[5]*Ibid.* Vol. III.

[6]Ins. by s. 3 of the Bihar Agricultural Income-tax (Amdt.) Act, 1949 (Bihar Act of 1949).

[§] Substituted & Omitted *vide* sec. 2 of the Bihar Agricultural Income-tax (Ame ment) Act 1959.

[1][(g) any expense incurred exclusively on the maintenance of any capital asset purchased or constructed before the 1st April, 1948, if such maintenance is required in connection with the collection of rents due in respect of the land from which such agricultural income is derived,]

(h) interest paid on any amount borrowed and actually spent on any capital expenditure incurred after [2] [the 12th October, 1938] exclusively for the benefit of the land from which such agricultural income is derived

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such amount as a borrower under sections 5, 6 and 7 of the Bihar Money-lenders (Regulation of Transactions) Act, 1939 [3] ; * * *

Bihar Act, VII of 1939

(i) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after [4] [the 12th October, 1938] exclusively for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land ,

[5] [* * * * *]

(j) any interest paid on any mortgage or any other kind of debt or any interest paid on other capital charge incurred exclusively for the purpose of acquiring the property from which such agricultural income is derived

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage, debt or charge as a borrower under sections 5, 6 and 7 of the Bihar Money-lenders (Regulation of Transactions) Act, 1939 , [3]

Bihar Act, VII of 1939.

(k) when the property from which such agricultural income is derived is subject to a mortgage created before the 3rd day of April, 1938, the amount of any interest actually paid on such mortgage

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage as a borrower under sections 5, 6 and 7 of the Bihar Money lenders (Regulation of Transactions) Act 1939, [3]

Bihar act VII of 1939.

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[1]Subs by ibid, for the original clause

[2]Ibid, for the words "the passing of this Act".

[3]Printed in the Bihar Code, Vol IV

[4]Substituted by s 3 of the Bihar Agricultural Income-tax (Amdt.) Act, 1949 (Bihar Act VII of 1949), for "the commencement of this Act".

[5]Rep by ibid

(*l*) any *malikana* paid by the [assessee in] respect of the land from which such agricultural income is derived; and

(*m*) any *malikana* paid by the assessee in respect of loans taken under the Bihar and Orissa Natural Calamities Loans Act, 1934 [1]. B. & O. Act I of

Determination of agricultural income mentioned in clause (*a*) (2) and (3) of section 2.

7. (1) The agricultural income mentioned in sub-clauses (2) and (3) of clause (*a*) of section 2 shall be assessed on the net amount of such income determined in the prescribed manner.

(2) Rules prescribing the manner of determining the net amounts of agricultural income for the purpose of sub-section (1) shall provide that the following deductions shall be made from the gross amounts of such income, namely:—

(*a*) the sum actually paid in the previous year as revenue to the [2] [Government] or as rent to landlord in respect of the land from which such agricultural income is derived;

(*b*) the sum actually paid in the previous year in respect of such land as any local cess or rate collected under any Bengal Act or under any Bihar and Orissa Act or under any Bihar Act;

(*c*) any rate paid under the Village Chaukidari Act, 1870, [3] or the Chota Nagpur Rural Police Act, 1914, [4] in respect of any building used exclusively for the purposes of the cultivation of the land from which such agricultural income is derived; Ben. Act VI of 1 B. & O. Act I of

(*d*) any sum paid in respect of the land from which such agricultural income is derived in accordance with rules made under the Bengal Irrigation Act, 1876; [5] Ben. Act of 1876

(*e*) the expenses of cultivating the crop from which such agricultural income is dervied, of transporting such crop to market, including the maintenance of agricultural implements and cattle required for the purpose of such cultivation and for transporting the crop to market;

(*f*) any tax, cess or rate paid under any Bihar Act on the cultivation or sale of the crop from which such agricultural income is derived;

[1]*Ibid.*, Vol. III.

[2]Subs. by para. 4(1) of the A. L. O. for "Crown".

[3]Printed in the Bihar Code, Vol. II.

[4]*Ibid.*, Vol. III.

Ibid., Vol. II.

(*g*) (*i*) any expense incurred on the maintenance of any irrigation or protective work constructed exclusively for the benefit of the land from which such agricultural income is derived,

[1] *Explanation* —Maintenance includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes

[2] [(*ii*) any expense incurred exclusively on the maintenance of any capital asset purchased or constructed before the 1st April, 1948, if such maintenance is required for the purpose of deriving such agricultural income from such land,]

(*iii*) interest paid on any amount borrowed and actually spent on any capital expenditure incurred after [3] [the 12th October 1938] exclusively for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such amount as a borrower under sections 5, 6 and 7 of the Bihar Money lenders (Regulation of Transactions) Act, 1939 [4],

Bihar Act VII of 1939

(*iv*) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after [5] [the 12th October, 1938] exclusively for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land, and

(*v*) any interest paid on any mortgage or other capital charge incurred exclusively for the purposes of acquiring the property from which such agricultural income is derived or for the purposes of cultivation of the property

Provided that no deduction shall be made under this clause, if it has already been made under section 3

[1]Ins by s 4 of the Bihar Agricultural Income tax (Amdt) Act, 1949 (Bihar Act VII of 1949)

[2]Subs by *ibid*, for the original sub-clause

[3]Subs by s 4 of the Bihar Agricultural Income-tax (Amdt) Act, 1949 (Bihar Act VII of 1949), for "the passing of this Act

[4]Printed in the Bihar Code, Vol IV

[5]Subs by s 4 of the Bihar Agricultural Income-tax (Amdt) Act, 1949 VII of 1949), for "the commencement of this Act'

Provided further that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage or charge as a borrower under sections 5,6 and 7 of the Bihar Money-lenders (Regulation of Transactions) Act, 1939 ; [1] and Bihar VII of 19

(*h*) such other deductions as may be prescribed.

Exemption of charitable or religious trusts.

8. (1) Where the assessee is a trustee and the trust under which he holds is a trust, created before the 12th October, 1938, for public purposes of a charitable or religious nature, any income applied to any public purpose of a charitable or religious nature in accordance with the terms of the trust subject to which he holds the property from which such agricultural income is derived, shall not be included in the total agricultural income of such assessee.

(2) In this section, purposes of a charitable nature include relief of the poor, education and medical relief.

Inclusions to prevent evasion of tax.

9. In computing the total agricultural income of an individual for the purpose of assessment, there shall be included—

(*a*) so much of the total agricultural income of a wife or minor child of such individual as arises directly or indirectly— R7806

(*i*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart;

(*ii*) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration ;

(*b*) so much of the total agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

Exemption of *wakf-alal-aulad.*

10. All agricultural income of Muslim trusts referred to in section 3 of the Musalman Wakf Validating Act, 1913, [2] created before the 12th October, 1938, shall be excluded from the operation of this Act: V of 19

Provided that the share of a beneficiary under a trust under the aforesaid Act, of the description commonly known as *Wakf-alal-aulad*, shall not be exempted and the tax may be realised from the *mutawali* and the basis of taxation shall be the share of each beneficiary.

Explanation.—For the purposes of this section, a beneficiary means the settler, his family, children or descendants.

Assessment of a Hindu undivided family.

11. The total agricultural income of a Hindu undivided family shall be treated as the income of one individual and be assessed as such ;

[1]Printed in the Bihar Code, Vol. IV.

[2]Printed in Central Acts, Vol. VI, Ed. 1951, p. 238.

Provided that if a Hindu undivided family consists—

(i) of brothers only, or

(ii) of a brother or brothers and the son or sons of a brother or brothers, or

(iii) of a brother or brothers and the son or sons of a brother or brothers of the father, or

(iv) of a brother or brothers, the son or sons of a brother or brothers and the son or sons of a brother or brothers of the father,

the total agricultural income of the family shall be assessed [1] [2][at the rate or rates specified in Part I of the First Schedule.

Explanation—For the purposes of this section—the expression 'Son' includes a son's son but does not include the son's son of a brother or brothers of the father

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Assessment of tax on land held for the

12 (1) Save as provided in sections 10, 13 and 15, if a person holds land on trust from which agricultural income is derived wholly for the benefit of another or partly for his own l
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exclusively for his own benefit, and the agricultural income-tax so payable shall be assessed on the person holding such land, and he shall be liable to pay the same

(2) Any person holding such land shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount of agricultural income-tax at the rate at which the agricultural income is or will be assessed under sub-section (1)

Explanation—In this section "beneficiary" means the person for whose benefit agricultural income of the land held on trust is derived

Assessment of tax on common manager, receiver etc

13 Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of the sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received by him shall be assessed on such common manager, receiver, administrator or the like, and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

[1] Substituted by s 5 of the Bihar Agricultural Income-tax (Amdt.) Act, 1949 (Bihar Act VII of 1949), for the original clauses (*a*) and (*b*)

[2]Omitted & substituted *vide* section 3 of the Bihar Agricultural Income-tax (Amdt.) Act, 1959.

Assessment of income derived from lands partly within the [1] [State] and partly without.

14. Where agricultural income is derived from lands situated partly within the [1] [State] and partly without the [1] [State], agricultural income-tax shall be levied under this Act—

(*i*) where the portion of such income attributable to the lands situated within the [1] [State] can be determined from the accounts maintained by the assessee, on the portion so determined ;

(*ii*) where the portion of the income so attributable cannot be determined by the method specified in clause (i), on such portion as may be determined in the prescribed manner.

Court of Wards, Administrator-General, etc.

15. In the case of agricultural income chargeable under this Act, which is received by the Court of Wards, the Administrator-General or the Official Trustee, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, or Official Trustee, in the like manner and to the same amounts as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly.

Exemptions in case of life insurances.

16. (1) (*a*) Agricultural income-tax shall not be payable by an assessee in respect of any sums paid by him out of his total agricultural income to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any provident fund to which the Provident Funds Act, 1925, [2] applies or any sum paid by him in the previous year as premium in order to effect any insurance against loss of or damage to land or any crops to be raised thereon or against risk of damage or destruction of buildings from which agricultural income is derived : XIX of

Provided that agricultural income-tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable if such deduction had not been made.

(*b*) Nothing in this sub-section shall be deemed to entitle an assessee, who is assessed to income-tax under the Indian Income-tax Act, 1922, [3] to claim a deduction in respect of any sum paid by him, as mentioned in clause (*a*), if such sum was exempted under section 15 of the said Act. XI of

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any member of the family.

(3) The aggregate of any sums exempted under the section shall not exceed one-sixth of the total agricultural income of the assessee.

[1] Subs. by para. 4(1) of the A. L. O. for "Province".
[2] Printed in Central Acts, Vol. VIII, Ed. 1951, p. 14.
[3] Printed in Central Acts, Vol. VII, Ed. 1950, p. 338.

[1][16A Where any land from which agricultural income is derived is held by a Co operative farming society registered under the Bihar and Orissa Co operative Societies Act, 1935 such society shall be exempted from the payment of tax under this Act on the agricultural income derived from such land — Exemption of co-operative farming societies — Act of 1935

Provided that for the purposes of determining the total agricultural income of any person who is a member of such society the share of agricultural income derived by him from such society shall be added to his other agricultural income, if any]

[2] [17 Agricultural income tax payable by a person shall in no case, exceed half the amount by which his total agricultural income exceeds the maximum amount not chargeable to agricultural income tax] — Marginal Adjustment of tax

CHAPTER III

INCOME-TAX AUTHORITIES

18 (1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely — — Income-tax authorities

(a) The Board of Agricultural Income-tax, Bihar,

(b) Commissioners of Agricultural Income-tax,

(c) Deputy Commissioners of Agricultural Income-tax,

(d) Assistant Commissioners of Agricultural Income-tax, and

(e) Agricultural Income-tax Officers

(2) The authorities specified in sub section (1) shall be appointed by the Governor and shall exercise and perform in such areas as the [3] [State] Government may, by notification, determine the prescribed powers and duties, and their conditions of service, and their relation to each other shall be such as may be prescribed

(3) The [3] [State] Government may, by notification, empower any officer, other than the authorities specified in sub-section (1) to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as may be specified in the notification

[1] Inserted by Bihar Finance Act, 1958 (Bihar Act IV of 1958)

[2] Subs by s 6 of the Bihar Agricultural Income-tax (Amdt.) Act, 1949 (Bihar Act VII of 1949), for the original section

[3] Subs by para 4 (1) of the A L. O for "Provincial"

(4) The persons appointed as authorities specified in sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.[1]

CHAPTER IV

ASSESSMENT, DEDUCTIONS AND EXEMPTIONS

Return of agricultural income.

19. (1) The Agricultural Income-tax Officer shall, on or before such date in each year as may be prescribed, give notice, by publication in such manner as may be prescribed, requiring every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax to furnish, within such period, not being less than sixty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total agricultural income during that year :

Provided that the Agricultural Income-tax Officer may in his discretion, extend the date for the delivery of the return in the case of any person or class of persons.

(2) In the case of any person whose total agricultural income is, in the opinion of the Agricultural Income-tax Officer, of such an amount as to render such person liable to agricultural income-tax for any financial year, the Agricultural Income-tax Officer may serve in that year a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth, along with such other particulars as may be provided for in the notice, his total agricultural income during the previous year :

Provided that the Agricultural Income-tax Officer may in his discretion, extend the date for the delivery of the return.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2) or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

Assessment.

20. (1) If the Agricultural Income-tax Officer is satisfied that a return made under section 19 is correct and complete, he shall, by order in writing assess the total agricultural income of the assessee, and determine the sum payable by him on the basis of such return.

[1] Printed in Central Acts, Vol. I, Ed. 1951, p. 214.

(2) If the Agricultural Income-tax Officer is not satisfied that the return is correct and complete he shall serve on the person who made the return a notice requiring him on the date specified therein, either to attend at the office of the Agricultural Income tax Officer or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Agricultural Income-tax Officer may require on specified points, shall, by an order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on such assessment

(4) If any person fails to make a return under sub-section (1) or sub-section (2) of section 19, or, having made the return, fails to comply with all the terms of the notice issued under sub section (2) of this section, or to produce any evidence required under sub-section (3) of this section, the Agricultural Income-tax Officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment

Provided that before making such assessment, the Agricultural Income tax Officer may allow the assessee such further time as he thinks fit to make the return or comply with the terms of the notice or to produce the evidence

Penalty for concealment of income.

21 (1) If the Commissioner, the Deputy Commissioner, the Assistant Commissioner or the Agricultural Income-tax Officer, in the course of any proceeding under this Act, is satisfied that an assessee has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the agricultural income-tax payable by him, pay by way of penalty a sum not exceeding the amount of agricultural income-tax which would have been avoided if the agricultural income so returned by the assessee had been accepted as the correct income

Provided that no such order shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard

(2) No prosecution for an offence against this Act shall be instituted in respect of the facts on which a penalty has been imposed under this section

(3) If the Commissioner, the Deputy Commissioner or the Assistant Commissioner makes an order under sub section (1), he shall forthwith send a copy of the same to the Agricultural Income-tax Officer

Power to assess individual members of certain firms, associations and companies.

22. (1) Where the Agricultural Income-tax Officer is satisfied that any firm or other association of individuals carrying on any business, other than a Hindu undivided family or a company, is under the control of one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as agricultural income-tax by the firm or association shall not be determined and thereupon the share of each member in the agricultural income of the firm or association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation.—A member of firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(2(Where the Agricultural Income-tax Officer is satisfied that a company is under the control of not more than five of its members and that its agricultural income is allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development on its business. without being distributed to the members, or that a reasonable part of its agricultural income, having regard to the said needs, has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total agricultural income, and that such accumulation or failure to distribute is for the purpose of preventing the imposition of agricultural income-tax upon any of the members in respect of their shares in the agricultural income so accumulated or not distributed, the Agricultural Income-tax Officer may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as agricultural income-tax by the company shall not be determined and thereupon the proportionate share of each member on the agricultural income of the company, whether such agricultural income has been distributed to the members or not, shall be included in the total agricultural income of such member for the purpose of his assessment thereon :

Provided that this sub-section shall not apply to any company which is a subsidiary company or in which the public are substantially interested.

Explanation.—For the purposes of this sub-section—

(*a*) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this sub-section apply or of two or more companies none of which is a company to which those provisions apply;

(*b*) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits)

carrying not less than twenty five *per cent* of the voting power have been allotted unconditionally to or acquired unconditionally by and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply) and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in India or are in fact freely transferable by the holders to other members of the public

(c) unless the contrary is proved a company shall be deemed to be under the control of any persons where the majority of the voting power or shares is in the hands of those persons or of relatives or nominees of those persons,

(d) 'nominee means a person who may be required to exercise his voting power on the directions of or holds shares directly or indirectly on behalf of another persons

(3) The Assistant Commissioner shall not give his approval to any order proposed to be passed by the Agricultural Income-tax Officer under this section, until he has given the firm, association or company concerned an opportunity of being heard

(4) (i) Where any member of a firm or association of individuals makes default in the payment of agricultural income-tax on his share of agricultural income which has been included in his total agricultural income under the provisions of sub-section (1), such agricultural income-tax may be recovered from the firm or association, as the case may be

(ii) Where the proportionate share of any member of a company in the undistributed agricultural income of the company has been included in his total agricultural income under the provisions of sub section (2), the agricultural income-tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

[illegible] is recoverable from a cor[illegible]der this sub-section, a not[illegible] it in the prescribed form showing the sum so payable, and such company, firm or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter V

(5) Where agricultural income tax has been paid in respect of any undistributed agricultural income of a company under this section and such agricultural income is subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total agricultural income of that year

Tax of deceased person payable by representative.

23. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the agricultural income-tax assessed as payable by such person, or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before he furnishes a return as required under the provision of sub-section (1) of section 19 or before he is served with a notice under sub-section (2) of that section or section 29, as the case may be, the Agricultural Income-tax Officer may serve on his executor, administrator or other legal representative a notice under sub-section (2) of section 19 or under section 29, as the case may be, and may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions of section 19 or having furnished a return which the Agricultural Income-tax Officer has reason to believe to be incorrect or incomplete, the Agricultural Income-tax Officer may make an assessment of the total agricultural income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may require from the executor, administrator or other legal representatives of the deceased person any accounts, documents or other evidence which he might under the provisions of sub-sections (2) and (3) of section 20 have required from the deceased person.

Notice of demand.

24. When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Act.

25. (1) Any assessee objecting to the amount of income assessed or rate at which he is assessed [1] or denying his liability to be assessed under this Act or objecting to any order against him under sections 21, 27A, 36 or 46 made by the Agricultural Income-tax Officer, may appeal to the prescribed authority against the assessment or against such order :

[2] [Provided that no appeal shall be entertained by the prescribed authority unless it is satisfied that twelve and a half *per centum* of the tax assessed has been paid.]

(2) Every appeal under this section shall ordinarily be presented within the prescribed period, but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period, if it is satisfied that

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[1] Omitted & substituted *vide* section 4(i) of the Bihar Agricultural Income-tax (A Act, 1959.

[2] Ins. by s. 8 of the Bihar Finance Act, 1951 (Bihar Act VII of 1951).

the appellant had sufficient cause for not presenting it within the prescribed period

(3) The prescribed authority shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make such further inquiry as it thinks fit

(4) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner

(5) In disposing of an appeal, the prescribed authority may—

(i) in the case of an order of assessment—

(a) confirm, reduce enhance or annul the assessment

(b) set aside the assessment and direct the Agricultural Income tax Officer to make a fresh assessment after such further inquiry as may be directed, or

(ii) in the case of an order under section 21 [1][or an order under section 27A other than] an order of assessment confirm, cancel or vary such order

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of being heard against such enhancement

26 (1) Any person aggrieved by an order passed under section 22 may within thirty days of the date on which he was served with notice of such order, lodge an appeal in the office of the Commissioner Reference to Board of Referees

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner

(3) The Commissioner shall refer such appeal with a statement of his own opinion thereon to a Board of Referees for decision, and the Board of Referees shall decide the appeal after hearing the appellant and any person deputed by the Commissioner

Provided that, before making a reference to a Board of Referees, the Commissioner may, and at the request of the appellant shall, decide the matters in dispute and thereupon the assessee may withdraw his appeal or proceed with it

(4) The decision of the Board of Referees shall be forwarded to the Commissioner who shall transmit it to the Agricultural Income tax Officer who passed the original order, and shall also send copies to each Agricultural Income-tax Officer who has made any assessment consequent upon such order, and where a decision reverses or modifies the order of the Agricultural Income tax Officer, fresh assessment shall

[1] Inserted by section 4(ii) of the Bihar Agricultural Income tax (Amdt) Act, 1959

be made in accordance therewith, or such consequential adjustments as may be required shall be made in any assessment already made.

(5) The decision of the Board of Referees shall not be subject to appeal to any agricultural income-tax authority, and shall not be revised by the Commissioner or by the Board.

(6) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one-half shall be non-officials having experience of zamindari or cultivation, and one shall be a judicial officer not inferior in rank to a Subordinate Judge or a Judge of Small Cause Court who has held judicial office for a period of not less than ten years.

(7) Subject to the provisions of sub-section (6), the Board may make rules regulating the formation, composition and procedure of Board of Referees.

Powers of revision.

[1] [27. Subject to such rules as may be prescribed and for reasons to be recorded in writing, the prescribed authority may, upon application or of its own motion, revise any order passed under section 20, 21, 25, 27A, 29, 36 or 41 or any order passed under this section by any authority other than the Board :

Provided that—

(*a*) *first*, where the prescribed authority revises any order of its own motion no proceedings for such revision shall be initiated at any time except before the expiry of three years from the date of such order;

(*b*) *secondly*, no order under section 20, 21, 27A, 29, 36, or 41 shall be revised upon application of an assessee unless an order under section 25 has been previously passed in respect of that order ;

(*c*) *thirdly*, the prescribed authority shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard; and

(*d*) *fourthly*, in the case of an application under this section, an order of the said authority declining to interfere shall not be deemed to be an order prejudicial to the assessee.]

[2] [27-A. Subject to such rules as may be prescribed, and for reasons to be recorded in writing, any order passed under this Act or the rules made thereunder, may be reviewed by the officer or authority passing it or by his or its successor-in-office.]

[1] Subs. by Bihar Agricultural Income-tax (Amdt.) Act, 1959.

[2] Inserted by sec. 13 of the Bihar Finance Act, 1954.

[1] 28 (1) If in the course of any proceeding before the Board a question of law arises, the Board may, of its own motion, draw up a statement of the case and refer it with its own opinion thereon to the High Court Reference of case by Board to High Court

require the Board to refer to the High Court any question of law arising out of such order and the Board shall within sixty days of the receipt of such application draw up a statement of the case and refer it with its own opinion thereon to the High Court

Provided that if, in the exercise of its powers under sub section (3), the Board refuses to state a case which it has been required by the assessee to state, the assessee may, within sixty days of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded

(3) If on any application being made under sub-section (2), the Board refuses to state the case on the ground that no question of law arises the assessee or the Commissioner, as the case may be, may, within six months of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Board, require the Board to state the case and to refer it, and, on receipt of any such requisition, the Board shall state and refer the case accordingly

(4) If, on any application being made under sub section (2), the Board rejects it on the ground that it is time barred, the assessee or the Commissioner, as the case may be, may, within three months of such rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the decision of the Board, may require the Board to treat the application as made within the time allowed under sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Board to make such additions thereto or alterations therein as the Court may direct in that behalf

(6) The High Court upon the hearing of any such case shall decide the question of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment [illegible] of the Registrar [illegible] necessary

(7) Where a reference is made to the High Court the costs including the disposal of the fee referred to in sub-section (2) shall be in the discretion of the Court

[1] Subs by s 5 of the Bihar Finance Act, 1953 (Bihar Act IX of 1953), for the original section

(8) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Board may allow.

(9) Section 5 of the Indian Limitation Act, 1908, [1] shall apply to an application to the High Court under sub-section (3) or sub-section (4).] IX of

Income escaping assessment.

[2] 29. Notwithstanding anything contained in this Act, if upon information which has come into his possession, the Agricultural Income-tax Officer is satisfied that reasonable ground exists to believe that any agricultural income chargeable to agricultural income-tax in any year has for any reason escaped assessment, or has not been assessed, or has been under-assessed, or has been assessed at too low a rate, or has been made the subject of excessive relief or deductions under the Act, the Agricultural Income-tax Officer may,—

(*a*) within six years of the end of that year where he has reasons to believe that the assessee has concealed, omitted or has failed to disclose fully the particulars of such income or has furnished incorrect particulars of such income and thereby returned figures below the real amount, or

(*b*) within three years of the end of that year in any other case,

serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 19 and proceed to assess or re-assesss such income to tax; and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the agricultural income-tax shall be charged at the rate at which it would have been charged had the agricultural income been assessed or fully assessed in that year.

Rectification of mistake.

30. (1) The authority which passed an order on appeal or revision may, at any time within one year from the date of such order, and the Agricultural Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, of his own motion, rectify any mistake

[1] Printed in Central Acts. Vol. V, Ed. 1949, p. 343.

[2] Subs. by S. 6 of the Bihar Agricultural Income-tax (Amdt.) Act, 1959.

apparent from the record of the appeal, revision or assessment, as the case may be, and shall within the like period rectify any such mistake as has been brought to his notice by such assessee

Provided that no such rectification shall, if it has the effect of enhancing an assessment, or reducing a refund, be made, unless the appellate authority or the Agricultural Income tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income tax Officer shall make any refund which may be due to such assessee

(3) Where any such rectification has the effect of enhancing an assessment or reducing a refund, the Agricultural Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 24, and the provisions of this Act shall apply accordingly

Tax to be collected to the nearest anna

31 In the determination of the amount of agricultural income tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna

Power to take evidence on oath

32 The Board, the Commissioner, the Deputy Commissioner, the Assistant Commissioner and the Agricultural Income tax Officer shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the
1908 Code of Civil Procedure, 1908 [1] when trying a suit in respect of the following matters, namely —

(*a*) enforcing the attendance of any person and examining him on oath or affirmation,

(*b*) compelling the production of documents, and

(*c*) issuing commissions for the examination of witnesses,

and any such proceeding before such Board, Commissioner, Deputy Commissioner, Assistant Commissioner or Agricultural Income tax Officer under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections
of 193 and 228 and for the purposes of section 196 of the Indian Penal Code [2]

Bar to recovery of rent in excess of that mentioned in rent roll

33 (1) If any person assessed to agricultural income tax in respect of agricultural income mentioned in sub-clause (1) of clause (*a*) of section 2 produces before the Agricultural Income tax Officer, for the purpose of calculating his agricultural income, any rent-roll or other document showing the amount of rent received by him, he shall not be entitled to

[1] Printed in Central Acts, Vol V, Ed 1949, p 1

[2] Printed in Central Acts, Vol I, Ed 1951, p 214

recover by suit or otherwise rent due to him in respect of any tenure or holding included in his return at a rate higher than the rate mentioned in such rent-roll or document in respect of such tenure or holding, unless the rent thereof has, since the date of the return, been lawfully enhanced.

(2) Any person who has produced a rent-roll or other document referred to in sub-section (1) may, within one year of producing such rent-roll or document, apply to the Agricultural Income-tax Officer to make any correction therein, and the Agricultural Income-tax Officer may, if he is satisfied that such correction should be made, pass an order correcting such rent-roll or document.

(3) Where the Agricultural Income-tax Officer passes any order under sub-section (2), he may assess under section 29 any income escaping assessment by reason of the original incorrectness of any entry corrected.

Power to call for information.

34. [1] [The Commissioner, the Deputy Commissioner,] the Assistant Commissioner or the Agricultural Income-tax Officer, may for the purposes of this Act,—

(1) require any firm or Hindu undivided family to furnish him with a return of the names of members of the firm or of the names of manager or the brothers and sons of brothers of the family, as the case may be, and of their addresses;

(2) require any person whom he has reason to believe to be a trustee, guardian or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses.

CHAPTER V

RECOVERY OF TAXES AND PENALTIES

Tax when payable.

35. (1) Any amount specified as payable in a notice of demand under section 24 shall be paid within thirty days from the date of the service of the notice, and any assessee failing so to pay shall be deemed to be in default :

[2] [Provided that where an assessee has presented an appeal under section 25, the appellate authority may, in its discretion, treat the assessee as not being in default, so long as such appeal is undisposed of ;]

(2) If an assessee makes an application within the time mentioned in the notice of demand under section 24 or an order under section 25, 26 or 27 for being allowed to pay the tax due by instalments, the Agricultural Income-tax Officer may, in his discretion, by order in writing, allow the assessee

[1] Subs. by s. 10 of the Bihar Finance Act, 1950 (Bihar Act XVII of 1950), for "Deputy Commissioner".

[2] Subs. by s. 10 of the Bihar Finance Act, 1951 (Bihar Act VII of 1951), fo original proviso.

to pay the tax due in instalments not exceeding four in number at such intervals as the said officer may fix in his discretion

Provided [1] [*] that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment, he shall be deemed to be a defaulter in respect of the total remaining amount of tax due

36 (1) When an assessee is in default in making a payment of agricultural income tax, the Agricultural Income-tax Officer may, in his discretion, direct that in addition to the amount of the arrears, a sum not exceeding half that amount shall be recovered from the assessee by way of penalty — Mode and time of recovery

(2) For the purposes of sub section (1), the Agricultural Income-tax Officer may direct the recovery of any sum less than half the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed half the amount of the arrears payable

(3) When an assessee is in default, the Agricultural Income tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as a public demand payable to the Collector

(4) (*a*) When agricultural income tax is, under section 8, payable by a trustee, or under section 10 payable by a *mutawalli* of a *Mussalman Wakf* referred to in section 3 of the Mussalman Wakf Validating Act, 1913 [2] and such trustee or *mutawalli* is in default The Agricultural Income tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such trustee or *mutawalli* the amount specified therein as a public demand

Provided that, notwithstanding anything to the contrary contained in section 15 of the Bihar and Orissa Public Demands Recovery Act, 1914 [3] any land held by such trustee or *mutawalli* as such shall not be attached and sold in execution of such a certificate, but such arrears may be realised from the income of the *wakf* estate by the appointment of a receiver of any property of the *wakf*

(*b*) The provisions of Order XL of the Code of Civil Procedure, 1908, [4] shall apply to a proceeding under this sub section, and the Certificate Officer shall be deemed to be a Civil Court within the meaning of the said Order XL

[1] Rep by *ibid*

[2] Printed in Central Acts, Vol VI, Ed 1951, p 238

[3] Printed in the Bihar Code, Vol III

[4] Printed in Central Acts, Vol V, Ed 1949, p 1

(5) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of three years after—

(a) the last date on which the sum is payable without the assessee being deemed to be in default;

(b) the date on which the last instalment fixed under sub-section (2) of section 35 falls due; or

(c) the date on which any appeal relating to the payment of sum has been disposed of whichever is the later.

Recovery of penalties.

37. Any sum imposed by way of penalty under the provisions of section 21, section 36 or section 41 shall be recoverable in the manner provided in this Chapter for the recovery of an arrear of tax.

Right, title and interest of a member of Hindu undivided family or of other persons on whose behalf property is held to pass to the purchaser when property is sold for realization of arrears of tax.

38. Notwithstanding anything contained in section 26 of the Bihar and Orissa Public Demands Recovery Act, 1914, [1]— B. & O. IV of 19

(a) where any property of a Hindu undivided family is sold under the said Act for the realization of arrears of agricultural income-tax, the right, title and interest of all members of such family in the property shall pass to the purchaser ;

(b) save as provided in sub-section (4) of section 36, where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrear, the land so held by him may be attached and sold for the realization of such arrears, and on such sale, the right, title and interest of such persons in the said land shall pass to the purchaser.

CHAPTER VI

OFFENCES AND PENALTIES

False statement in declaration.

39. If any person makes a statement in a verification mentioned in section 19, section 25 or section 26 which is false, and which he either knows or believes to be false, or does no believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code. [2] XLV of

Prosecution to be at the instance of the Commissioner.

40. (1) A person shall not be proceeded against for an offence under section 39 except at the instance of [3] [the Commissioner].

[1] Printed in the Bihar Code Vol. III.
[2] Printed in Central Acts, Vol. I Ed. 1951, p. 214.
[3] Substituted by s. 10 of the Bihar Finance Act, 1950 (Bihar Act XVII of 1950 "Deputy Commissioner".

(2) Before instituting
under sub section (1), [1] [
such person to show cause
instituted against him

(3) The [1] [the Commissioner] may stay any such proceeding or compound any such offence

41 If any person fails, without reasonable cause or excuse, to furnish any of the returns mentioned in section 19 or section 34 within a fortnight of the due date the Assistant Commissioner of Agricultural Income ta
Income tax Officer, as the case may be,
person shall, by way of penalty, pay a su
rupees for every day after the due date during which the default continues Failure to furnish returns or to

42 (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit Disclosure of information by public

relating to the recovery of a demand prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding any thing contained in the Indian Evidence
I 1872 Act, 1872 [2] no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return accounts, document or record or any part of such record or to give evidence before it in respect thereof

(2) If, save as provided in sub section (3), a public servant discloses
ment, return,
deposition or rec
ment which may extend to six months and shall also be liable to fine

(3) Nothing contained in this section shall apply to the disclosure—

V of 1860. (a) of any such particulars for the purposes of a prosecution under the Indian Penal Code, [3] in respect of any such statement, return, accounts, document, evidence, affidavit or deposition or for the purposes of a prosecution under this Act, or

(b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or

(c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

[1] Substituted by s 10 of the Bihar Finance Act, 1950 (Bihar Act XVII of 1950), for 'Deputy Commissioner

[2] Printed in Central Acts Vol II, Ed 1951, p 1

[3] Printed in Central Acts, Vol I, Ed 1951, p 214

(*d*) of any such particulars to a Civil Court in any suit to which the [1] [State] Government is a party which relates to any matter arising out of any proceeding under this Act; or

(*e*) of any such particulars to any officer appointed to audit agricultural income-tax receipts or refunds; or

(*f*) of any such particulars relevant to any inquiry into the conduct of an official of the Agricultural Income-tax Department to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850, [2] or to an officer otherwise appointed to hold such inquiry; or XXXVII of 1850.

(*g*) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it.

Cognizance of offences.

43. (1) No Court shall take cognizance of any offence under this Act, or the rules made thereunder, except with the previous sanction of [3] [the Commissioner] and no Court inferior to that of a Magistrate of the first class shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, [4] all offences punishable under this Act shall be cognizable and bailable. V of 1898.

[5] [CHAPTER VIA

SUPER-TAX

Charge of super-tax.

43A. In addition to the agricultural income-tax for the year, there shall be charged, levied and paid for that year in respect of the total agricultural income of the previous year of a person, an additional tax (in this Act referred to as super-tax) [6][at the rate or rates specified in Part II of the First Schedule].

Total agricultural income for purposes of super-tax.

43B. Subject to the provisions of this Chapter, the total agricultural income of any person shall, for the purposes of super-tax, be the total agricultural income as assessed for the purposes of agricultural income-tax, and where an assessment of the total agricultural income has become final and conclusive for the purposes of agricultural income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

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[1] Substituted by para. 4(1) of the A. L. O. for "Province".

[2] Printed in Central Acts, Vol. I, Ed. 1951, p. 74.

[3] Substituted by s. 10 of the Bihar Finance Act, 1950 (Bihar Act XVII of 1950), "the Deputy Commissioner".

[4] Printed in Central Acts, Vol. IV, Ed. 1950, p. 9.

[5] Ins. by s. 2 of the Bihar Finance Act, 1949 (Bihar Act IX of 1949).

[6] Substituted by Section 7 of the Bihar Agricultural Income-tax (Amendment) Act, 1959.

43C. All the provisions of this Act relating to the charge assessment, collection and recovery of agricultural income-tax except those contained in sections 3, 5, 11, 16 and 17, shall apply, so far as may be, to charge, assessment, collection and recovery of super-tax]

Application of Act to super-tax.

CHAPTER VII

MISCELLANEOUS

[illegible]

the land from which the greater part of the agricultural income of such person is derived

Provided that where an assessee has made a return under sub-section (1) of section 19 to the Agricultural Income-tax Officer having jurisdiction over the assessee's place of residence or the place where any of his lands is situated or where his accounts are maintained, he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the officer concerned unless for reasons to be recorded in writing, he passes an order that the assessment shall be made in any other place

(2) (*a*) An assessee who has not made a return under section 19 may at any time before the expiry of the time allowed for the submission of the return, apply to the Agricultural Income-tax Officer of the area in which is situated the land from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the [1] [State] of Bihar and the Agricultural Income-tax Officer shall refer the matter to the Assistant Commissioner whose decision thereon shall be final

(*b*) Where an order is passed under clause (*a*), the assessee shall not be entitled to make any further application to change his place of assessment

Provided that the Agricultural Income-tax Officer may allow the assessee to be assessed at any other place upon such conditions as he thinks fit

(3) Notwithstanding anything contained in this section, every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area to which he is appointed

45. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the [2] [Government] for anything in good faith done or intended to be done under this Act

Bar of suits in Civil Courts

[1] Substituted by para 4(1) of the A L O for "Province".
[2] Substituted by para 4(1) of the A. L. O. for "Crown".

Computation of periods of limitation.

46. In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Appearance by authorised representative.

47. Any assessee, who is entitled or required to attend before any agricultural income-tax authority in connection with any proceeding under this Act, otherwise than when required under section 32 to attend personally for examination on oath or affirmation, may attend either in person or by any person authorised by him in writing in this behalf.

Receipts to be given.

48. A receipt shall be given for any money paid or recovered under this Act.

Service of notices.

49. (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 [1]. V of 19

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager, or any adult male member of the family, and, in the case of any other association of individuals, be addressed to the principal officer thereof; and any such notice or requisition so addressed shall be deemed to be a notice or requisition to the firm, family or association of individuals, as the case may be.

Indemnity.

50. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.

Powers of agricultural income-tax authorities to call for papers or documents.

51. Nothing in this Act shall be deemed to authorise any of the agricultural income-tax authorities mentioned in section 18 to call for any papers or documents for the purpose of ascertaining agricultural income or for any other purpose under this Act except the papers noted blow:—

(1) papers showing the amount of rent which accrued due in the previous year;

(2) papers showing the actual receipt of agricultural income by an assessee in the previous year;

(3) ledgers showing the actual expenditure incurred for which a deduction or exemption is claimed under this Act;

(4) original vouchers supporting the items of expenditure referred to in clause (3); and

(5) any other paper which in the opinion of any of the agricultural income-tax authorities is relevant to the ascertainment of agricultural income of an assessee or the verification of claims for deduction or exemption made by an assessee.

[1] Printed in Central Acts, Vol. V, Ed. 1949, p. 1.

Power to seize papers, etc., and search premises

52. (1) If the Agricultural Income-tax Officer has reason to believe that any person is attempting to evade the payment of any tax due from him under this Act, he *may*, *for reasons* to be recorded in writing, seize or take copy or cause copies to be taken of any register of members, debentures, mortgage deeds, rent-roll and *batai*, counterfoils of rent receipts, cash books, *seaha* and *gilandazi* papers and other documents which, in the opinion of the Agricultural Income-tax Officer, are

may be necessary for examination thereof or for a prosecution

(2) For the purposes of this section, the Agricultural Income-tax Officer may enter and search the *cutcherry* of such person

Power to make rules

53. (1) The [1] [State] Government may, after previous publication, make rules [2] for carrying out the purposes of this Act, and such rules may be made for the whole of the [3] [State] or for such part thereof as may be specified

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which, and the procedure by which, the net agricultural income of a person referred to in sub section (1) of section 7 shall be determined,

(*b*) prescribe the rate of depreciation in respect of capital assets referred to in sub clause (*iv*) of clause (*g*) of sub-section (2) of section 7,

(*c*) prescribe deductions, other than the deductions mentioned in clauses (*a*) to (*g*) of sub-section (2) of section 7, to be made in the computation of the net agricultural income,

(*d*) prescribe the manner in which, and the procedure by which, the portion of the agricultural income referred to in clause (*ii*) of section 14 shall be determined,

(*e*) prescribe the powers, functions and duties of agricultural income-tax authorities, the area in which such powers, functions and duties shall be exercised and performed, the relation of such authorities to each other and the conditions of service of such authorities,

(*f*) prescribe the date before which returns under sub-section (1) of section 19 shall be submitted and the manner of publication of the notice calling for such returns,

(*g*) prescribe the form of returns under section 19 and the manner in which they shall be verified;

[1] Substituted by para 4(1) of the A L O for "Provincial".

[2] For rules under this section, *see* B & O R & O, Vol I, Pt VII

[3] Subs by para 4(1) of the A. L O for "Province".

[1][THE FIRST SCHEDULE

(*See* sections 5, 11 and 43A.)

PART I

RATES OF AGRICULTURAL INCOME-TAX

	Rate
1. On the first Rs. 1,500 of the total agricultural income .	Nil.
2. On the next Rs. 3,500 of the total agricultural income .	Five Naye Paise rupee.
3. On the next Rs. 5,000 of the total agricultural income .	Eleven Naye Paise i rupee.
4. On the next Rs. 5,000 of the total agricultural income .	Sixteen Naye Paise rupee.
5. On the next Rs. 5,000 of the total agricultural income .	Twenty-two Naye P the rupee.
6. On the balance of the total agricultural income . . .	Twenty-five Naye P the rupee.

Provided that in the case of every Hindu undivided family consisting of brothe other co-parceners referred to in section 11 the tax shall be payable—

(*a*) If the share of a brother is Rs. 3,000 or less . . .	At the rate of Three Paise in the rupee
(*b*) If the share of a brother exceeds Rs. 3,000 . . .	At the rate applica the share of such b if he were assessec individual.

Explanation.—The expression "share of a brother" means the portion of the total agric income of a Hindu undivided family, which would have been allotted to a broth partition of the property of such family had been effected according to the ordina of Hindu Law applicable to such family, on the day before the assessment is made.

PART II

RATES OF SUPER-TAX

	Rate
1. On the first Rs. 25,000 of the total agricultural income .	Nil.
2. On the next Rs. 10,000 of the total agricultural income .	Six Naye Paise i rupee.
3. On the next Rs. 10,000 of the total agricultural income .	Nine Naye Paise rupee.
4. On the next Rs. 10,000 of the total agricultural income .	Thirteen Naye Pa the rupee.
5. On the next Rs. 10,000 of the total agricultural income .	Sixteen Naye Paise rupee.
6. On the next Rs. 10,000 of the total agricultural income .	Nineteen Naye Pa the rupee.
7. On the next Rs. 15,000 of the total agricultural income .	Twenty-two Naye F the rupee.
8. On the next Rs. 15,000 of the total agricultural income .	Twenty-five Naye in the rupee.
9. On the next Rs. 15,000 of the total agricultural income .	Twenty-eight Naye in the rupee.
10. On the next Rs. 30,000 of the total agricultural income .	Thirty-one Naye P the rupee.
11. On the balance of the total agricultural income . .	Thirty-three Naye in the rupee.]

[1] Substituted by Bihar Agricultural Income-tax (Amendment) Act, 1959.

THE SECOND SCHEDULE

ENACTMENTS REPEALED

(*See* section 54)

Bihar Act No	Short title
VII	The Bihar Agricultural Income-tax Act, 1938
V	The Bihar Agricultural Income tax (Amendment) Act, 1939
IX	The Bihar Agricultural Income-tax (Second Amendment) Act, 1939
I	The Bihar Agricultural Income tax (Amendment) Act, 1940
I	The Bihar Agricultural Income-tax (Amendment) Act, 1942
IV	The Bihar Agricultural Income tax (Amendment) Act, 1944.

THE AGRICULTURAL INCOME-TAX ACT, 1950

[ACT XXII OF 1950]

An Act to provide for the levy of a tax on agricultural income in the State of Kerala.

Preamble.

WHEREAS it is expedient to prouide for the levy of a tax on agricultural income in the State of [1][Kerala];

IT is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the [1][Agricultural Income-tax Act] 1950.

(2) It extends to the whole of the State of [1][Kerala].

(3) It shall come into force on such day as the Government may by notification in the Gazette appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Agricultural income" means,—

(1) any rent or revenue derived from land which is used for agricultural purposes ;

(2) any income derived from such land in the State by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (*ii*);

Explanation.—Agricultural income derived from such land by the cultivation of tea means that portion of the income derived from the cultivation, manufacture, and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax.

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land or occupied by the cultivator or the receiver of rent-in-kind of any

[1] Substituted by Act 8 of 1957.

land with respect to which or the produce of which any operation mentioned in sub clauses (ii) and (iii) of clause (2) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house or as a store house or other out-building ,

(*b*) "Agricultural Income-tax" means the tax payable under this Act ,

(*c*) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under Section 15 ,

(*d*) "Assessee" means a person by whom Agricultural Income tax is payable ,

(*e*) "Assistant Commissioner" means the person appointed as Assistant Commissioner of Agricultural Income-tax under Section 15

(*f*) "Collector" means the Collector or other officer in charge of a District ,

(*g*) "Commissioner" means the person appointed to be the Commissioner of Agricultural Income-tax under Section 15 ,

tral Act 1956 (*h*) [1]["Company" means a company as defined in Section 3 of the Companies Act, 1956] and includes a foreign company within the meaning of section 591 of that Act and any foreign association, whether incorporated or not, which the Government may, by general or special order declare to be a company for the purposes of this Act ,

(i) [2][..... .]

(j) "Financial year" means the year beginning on the 1st April and ending on the 31st March next following ,

ral Act 1932 [1](*k*) "Firm", "Partner" and "Partnership" have the same meanings respectively as in the Indian Partnership Act, 1932 but the expression "partnor" shall also include any person who being a minor has been admitted to the benefits of partnership,

'as Act of 1933 [3][(*kk*) "Hindu undivided family" includes a family governed by the Madras Nambudiri Act, 1932],

[1] Substituted by Act 2 of 1958

[2] Omitted by Act VI of 1955

[3] Inserted by Act 8 of 1957

(*l*) "Landlord" means any individual who receives rent for land either in cash or kind from a tenant ;

(*m*) "Person" means any individual or association of individuals, owing or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu Mitakshara family, [1][an Aliyasanthana family or branch or a Marumakkathayam tarwad] or a tavazhi possessing separate properties, or a Nambudiri, Moothathu or other family to which the rule of impartibility applies, a firm or a company, an association of individuals, whether incorporated or not, and any institution capable of holding property ;

(*n*) "Prescribed" means prescribed by rules made under this Act ;

(*o*) "Previous year" means—

(*i*) the twelve months ending on the 31st day of March preceding the year for which the assessment is to be made or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up :

Provided that, if the option has once been exercised by an assessee, he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Agricultural Income-tax Officer and upon such conditions as he may think fit or ;

(*ii*) such period as may be determined by the Commissioner in the particular case of any person or class of persons ;

(*p*) "Principal Officer" used with reference to any company or association, means—

(*i*) the Secretary, Treasurer, Manager or Agent of the company or association, or

(*ii*) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof ;

(*q*) "Registered Firm" means a firm registered under the provisions of Section 27 ;

(*r*) "State" means the State of [1][Kerala] ;

(*s*) "Total Agricultural Income" means the aggregate of all agricultural income mentioned in Section 4

[1] Inserted by Act 8 of 1957.

computed in accordance with the provisions of Section 5 and includes all income of the description specified in Section 9 and all receipts of the description specified in clauses [1][(*a*), (*c*) and (*d*) of Section 10]

[2][**2A.** *Special definition of "previous year" for the purpose of assessment for the financial year 1958 59 in respect of agricultural income derived from lands in the Malabar district*—Notwithstanding anything contained in clause (*o*) of section 2, "previous year" for the assessment for the financial year commencing from the 1st day of April 1958 and in so far as such assessment relates to the agricultural income derived from lands situated in the Malabar district referred to in sub section (2) of section 5 of the States Reorganisation Act, 1956, shall be the whole period commencing on the 1st day of November, 1956 and ending on the 31st day of March, 1958, or, if the accounts of the assessee have been made up to a date within the financial year ending on the 31st day of March 1958, then, at the option of the assessee, the period commencing on the 1st day of November, 1956 and ending on the aforesaid date to which the accounts have been so made up

Central Act 37 of 1956

Provided that—

(*i*) notwithstanding anything contained in sections 3 and 56, the agricultural income tax and super tax chargeable on the total agricultural income of the previous year as reckoned in this section shall be at the rates applicable to the 'average annual income' according to the Schedule such 'average annual income' shall be an amount bearing to the aforesaid total agricultural income the same proportion as the period of twelve months bears to the period of the previous year as defined in this section, and

(*ii*) the limit for exemption from chargeability to tax shall be determined with reference to the 'average annual income'"

2B. *Special provision for the computation of total agricultural income for the assessment year 1958 59 of persons holding lands both in the Malabar district and the remaining part of the State* Notwithstanding anything contained in section 2A and section 4, the total agricultural income for the assessment year 1958 59 of any person holding lands situated both in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 and in the remaining part of the State shall be the aggregate of the income derived from lands situated in the said Malabar district during the previous year as defined in section 2A chargeable to tax and the income derived

Central Act 37 of 1956

[1] Substituted by Act VI of 1955

[2] Inserted by Act 11 of 1959

from the lands situated in the remaining part of the State during the previous year as defined in clause (*o*) of section 2, chargeable to tax :

Provided that the tax chargeable on the total agricultural income shall be at the rate applicable to an amount made up of the "average annual income" as determined in clause (*i*) of the proviso to section 2A and the agricultural income derived from the lands situated in the State excluding the said Malabar district during the previous year as defined in clause (*o*) of section 2 and the limit of exemption from chargeability to tax shall be determined with reference to the amount so made up.]

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of agricultural Income-tax.

3. (1) Agricultural income-tax at the rate or rates specified in the Schedule to this Act shall be charged for each financial year in accordance with and subject to the provisions of this Act, on the total agricultural income of the previous year of every person.

(2) Where there is included in the total agricultural income of an assessee any income exempted from agricultural income-tax by or under the provisions of this Act, the agricultural income-tax payable by the assessee shall be an amount bearing to the total amount of the agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted, the same proportion as the unexempted portion of the total agricultural income bears to the total agricultural income.

(3) In the case of an undivided [1][Aliyasanthana family or branch or Marumakkathayam tarwad] including a Nambudiri family or a family like that of the Moothathu or any other class governed by the law applicable to Nambudiries consisting of more than five members and whose agricultural income exceeds six thousand rupees, the tax shall be assessed at the average rate applicable to the share of the agricultural income due to five members of the family or to six thousand rupees, whichever is higher.

(4) In the case of an undivided Hindu family consisting of brothers only or of a brother or brothers and the son or sons of a brother or brothers and whose agricultural income exceeds six thousand rupees, the tax shall be assessed at the average rate applicable to the share of income due to a brother or to six thousand rupees, whichever is higher.

Explanation.—For the purposes of this sub-section—

(*a*) the expression 'share of income due to a brother' means the portion of the total agricultural income of the family which would have accrued to a brother, if a partition of the assets had been effected according to law on the day before the assessment is made ; and

[1] Substituted by Act 8 of 1957.

(b) 'son' includes a son's son

(5) In the case of persons holding property as tenants-in common and deriving agricultural income, the tax shall be assessed at the rate applicable to the agricultural income of each tenant in common

Composition and consolidated payment of agricultural income tax

[3A. (1) Any assessee, other than a company may apply to the Agricultural Income tax Officer to compound the agricultural income tax payable by him for the financial year commencing, on the 1st April, 1960, or any subsequent financial year, if his total agricultural income for the previous year does not exceed five thousand rupees

(2) The application under sub section (1) shall be made in such form, in such manner and within such time and shall contain such particulars as may be prescribed

(3) The Agricultural Income tax Officer after satisfying himself that the particulars specified in the application are correct and that the total agricultural income of the assessee for the previous year does not exceed five thousand rupees may, by order in writing compound the tax payable by him for a consolidated payment of seventy five rupees

(4) The provisions of this Act relating to collection and the recovery of agricultural income tax shall apply to the collection and recovery of the consolidated amount payable under sub-section (3)]

4. Subject to the provisions of this Act the total agricultural income of any previous year of any person comprises all agricultural income derived from land situated within the State and received by him within or without the State, but does not include— Total agricultural income

(a) any agricultural income derived from land situated without the State ,

(b) any agricultural income derived from property held under trust or other legal obligation wholly for religious or charitable purposes and in the case of property so held in part only for such purposes, the income applied thereto

Explanation—In this section " charitable purposes ...udes relief of the poor, education medical relief and the ...ncement of any other object of general public utility

...The agricultural income of a person shall be compute... making the following deductions, namely — Computation of agricultural income

...) any sums paid in the previous year on account of land revenue due to the Government, the Edavagai, the Sripandaravagai or the Sripadam, Jenmikaram, Thiruppuvaram, local rates and cesses and municipal taxes ,

(*b*) any rent paid in the previous year to the landlord or superior landlord, as the case may be, in respect of the land from which the agricultural income is derived ;

(*c*) any expenses incurred in the previous year on the maintenance of any irrigation or protective work constructed for the benefit of the land from which the agricultural income is derived ;

Explanation.—"Maintenance" includes current repairs and includes also, in the case of protective dykes and embankments, all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes.

(*d*) any expenses incurred in the previous year on repairs in respect of any capital asset which was purchased or constructed for the benefit of the land from which the agricultural income is derived;

(*e*) any interest paid in the previous year on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land from which the agricultural income is derived ;

(*f*) where the land from which the agricultural income is derived is subject to a mortgage or other capital charge, any interest paid in the previous year in respect of such mortgage or charge ;

(*g*) any interest paid in the previous year on any debt, whether secured or not, incurred for the purpose of acquiring the land from which the agricultural income is derived ;

(*h*) any sum paid in the previous year as interest in respect of agricultural loans taken and expended on the land from which agricultural income is derived ;

(*i*) interest paid on any amount borrowed and actually spent for the purpose of re-claiming, improving or cultivating the property from which agricultural income is derived ;

(*j*) any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee laid out or expended wholly and exclusively for the purpose of deriving the agricultural income;

(*k*) such other deductions as may be prescribed generally or in particular cases ;

(*l*) in respect of depreciation of buildings, machinery, plant, and furniture which are the property of the assessee and are required for the purpose of deriving the agricultural income a sum equivalent to such percentage on the written down value thereof as may in any case or class of cases be prescribed, and

where the buildings have been newly erected or the machinery or plant newly installed a further sum subject to such conditions as may be prescribed

Provided that full particulars have been duly furnished

Provided further that the aggregate of all such allowances made under this Act shall in no case exceed the original cost to the assessee of the buildings, machinery plant or furniture, as the case may be,

(m) in the case of agricultural income *under the head rent or revenue* derived from land referred to in sub clause (1) of clause (a) of section 2—(agricultural income from rent or revenue)—

(i) any expenses actually incurred in the previous year in the collection of agricultural income,

(ii) any expenses incurred in the previous year on repairs in respect of any capital asset used in connection with the collection of rent due in respect of the land from which the agricultural income is derived,

(n) in the case of *agricultural income* referred to in sub-clause (2) of clause (a) of section 2—(agricultural income from agriculture)—

(i) the expenses other than capital expenditure incurred in the previous year of cultivating the crop from which the agricultural income is derived and of transporting such crop to market including the maintenance of agricultural implements and cattle required for such cultivation and transport or both,

(ii) any tax, cess or rate paid on the cultivation or sale of the crop from which such agricultural income is derived,

(iii) the cost incurred in the previous year in the purchase or replacement of cattle or implements, which are necessary for cultivation, to such extent as may be prescribed, less the amount realised by sale of the cattle or implements replaced or their estimated value,

(iv) any sum paid in the previous year in order to effect an insurance against loss or damage of crops or property from which the agricultural income is derived or insurance against loss or damage in respect of building, machinery, plant and furniture necessary for the purpose of deriving the agricultural income

Provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purposes of this Act, and shall be liable to agricultural income-tax after deducting the portion thereof, if any, which has been assessed to income-tax under the Indian Income-tax Act, 1922,

(v) any expense incurred in the previous year on the maintenance of any capital asset if

such maintenance is required for the purposes of deriving the agricultural income :

Provided that no deduction shall be made under this section if it has already been made in the assessment under the Indian Income-tax Act, 1922.

[1][*Explanation* 1.—For the purpose of this section "paid" means actually paid or incurred according to the method of accounting upon the basis of which agricultural income is computed under this section ; "plant" includes vehicles and scientific apparatus purchased for the purpose of deriving the agricultural income; and "written down value" means—

(*i*) in the case of assets acquired in the previous year, the actual cost to the assessee ; and

(*ii*) in the case of assets acquired before the previous year the actual cost to the assessee less such sum as may be prescribed.]

[2] [*Explanation* 2.—Nothing contained in this section shall be deemed to entitle a person deriving agricultural income to deduction of any expenditure laid out or expended for the cultivation, upkeep or maintenance of immature plants from which no agricultural income has been derived during the previous year].

Assessment of income derived from lands partly within the State and partly without.

6. Where agricultural income is derived from lands situated partly within the State and partly without the State, agricultural income-tax shall be levied under this Act—

(*i*) where the portion of such income attributable to the lands situated within the State can be determined from the accounts maintained by the assessee, on the portion so determined ;

(*ii*) where the portion of the income so attributable cannot be determined by the method specified in clause (*i*) on such portion as may be determined in the prescribed manner.

Method of accounting.

7. Agricultural income shall be computed for the purpose of sections 5 and 6 in accordance with the method of accounting regularly employed by the assessee:

Provided that, if no method of accounting has been regularly employed by the assessee, or if the method employed is such that in the opinion of the Agricultural Income-tax Officer, the agricultural income cannot properly be deduced therefrom, then the computation, shall be made upon such basis and in such manner as he may determine.

Liability of Court of Wards, Administrator-General, etc.

8. (1) (*a*) In the case of agricultural income taxable under this Act which the Court of Wards, Administrator-General or Official Trustee or any receiver, administrator, executor, trustee, guardian or manager appointed by or under any law or by an order of court or by written agreement is entitled to receive on behalf of any person the tax shall be levied upon and recoverable from the Court of Wards, Administrator-General, Official Trustee or from such receiver, adminis-

[1] Numbered by Act 9 of 1961.

[2] Inserted by Act 9 of 1961.

trator, executor, trustee, guardian or manager, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the person on whose behalf such agricultural income is receivable, and all the provisions of this Act shall apply accordingly

(b) Where the agricultural income received on behalf of any person by the Court of Wards, Administrator-General, Official Trustee, receiver, administrator, executor, trustee, guardian or manager, referred to in sub section (1) (a) is part only of the total agricultural income of such person, the agricultural income-tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax so assessed shall be levied upon and recoverable from the Court of Wards, Administrator-General, Official Trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and from such person rateably according to the portion of the total agricultural income of such person received by the Court of Wards, Administrator-General Official Trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and the portion received by such person

(c) Nothing contained in this sub-section shall prevent either the direct assessment of the person on whose behalf the agricultural income is receivable or the recovery from such person of the tax payable in respect of such income

(2) (a) Save as provided in sub-section (1), if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of others or wholly for the benefit of others, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such person had held the land exclusively for his own benefit

(b) Any person holding such land shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive to deduct the amount of agricultural income-tax at the rate at which such income is or will be assessed under clause (a)

Explanation —In this section "beneficiary" means a person entitled to a portion of the income derived from the land

9. (1) In computing the total agricultural income of an assessee, all agricultural income arising to any person by virtue of a settlement or disposition, whether revocable or not, and whether effected before or after the commencement of this Act from assets remaining the property of the settler or disponer shall be deemed to be the agricultural income of the settler or disponer and all agricultural income arising to any person by virtue of a revocable transfer of assets shall be deemed to be the agricultural income of the transferor : **Income from settlement, disposition, etc**

Provided that for the purposes of this sub section, a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the re-transfer directly or indirectly of the agricultural income or assets to the settler, disponer or transferor or in any way gives the settler, disponer

or transferor, a right to reassume power directly or indirectly over the agricultural income or assets :

Provided further that the expression "settlement or disposition" shall, for the purposes of this sub-section include any disposition, trust, covenant, agreement or arrangement, and the expression "settler or disponer" in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made :

Provided also that this sub-section shall not apply to any agricultural income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which agricultural income, the settler or disponer derives no direct or indirect benefit but that the settler shall be liable to be assessed on the said agricultural income as and when the power to revoke arises to him.

(2) In computing the total agricultural income of any individual for the purpose of assessment, there shall be included—

(*a*) so much of the agricultural income of a wife or minor child of such individual as arises directly or indirectly—

(*i*) from the membership of the wife in a firm of which her husband is a partner ;

(*ii*) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner ;

(*iii*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart ; or

(*iv*) from assets transferred directly or indirectly to the minor child not being a married daughter, by such individual otherwise than for adequate consideration ; and

(*b*) so much of the agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association, by such individual for the benefit of his wife or minor child or both.

Exemption from assessment of income-tax.

10. Agricultural income-tax shall not be payable on that part of the total agricultural income of a person which is—

(*a*) any sum which he receives out of the agricultural income of a Hindu undivided family or [1][Aliyasanthana family or branch or Marumakkathayam

[1]Substituted by Act 8 of 1957.

tarwad], if he receives such sum as a member of the family or tarwad and tax under this Act has been levied on the agricultural income ;

[1][(*b*)............... ..]

(*c*) any sum which he receives as his share out of the agricultural income of a firm or association of persons, if the tax under this Act has been levied on the agricultural income of such firm or association ;

(*d*) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 9;

(*e*) any sum paid by such person—

(*i*) to effect an insurance on the life of such person or on the life of a wife or husband of such person or in respect of a contract for deferred annuity on the life of such person or on the life of a wife or husband of such person ;

(*ii*) where the assessee is a Hindu undivided family or [2][Aliyasanthana family or branch or Marumakkathayam tarwad], to effect an insurance on the life of any member of such family or tarwad

Provided that the aggregate of any sums exempted under this section shall not exceed one-sixth of the total agricultural income of the assessee or six thousand rupees whichever is less

Provided further that nothing contained in this section shall be deemed to entitle a person who is assessed to income-tax under the Indian Income-tax Act 1922, to claim any deduction in respect of any sum referred to in this section if it was exempted under section 15 of the said Act

11 (1) In the case of any person residing outside the State, his total agricultural income shall be chargeable to agricultural income-tax either in his name or in the name of his agent and in the latter case, such agent shall be deemed to be for all the purposes of this Act, the assessee in respect of such tax — Non residents

(2) Any person employed by or on behalf of a person residing out of the State or through whom the non resident person is in receipt of any agricultural income, upon whom the Agricultural Income tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for the purposes of this Act, be deemed to be such agent

Provided that no person shall be deemed to be the agent of a non resident person, unless he has had an opportunity of being heard by the Agricultural Income-tax Officer as to his liability

...by Act VI of 1955
...d by Act 8 of 1957
& S /60

(3) Where a notice under this Act has to be served on a non-resident person it shall be served in the prescribed manner.

Carrying forward of loss.

12. Where any person sustains a loss in agricultural income in any year the loss shall be carried forward to the following year and set off against the agricultural income for that year and if it cannot be wholly so set off, the amount of loss not so set off, shall be carried forward to the following year and so on; but no loss shall be carried forward for more than six years.

Power to make reduction in rate etc.

13. (1) The Government may, by notification in the Gazette, make an exemption, reduction in rate, or other modification in respect of agricultural income-tax in favour of any class of income or in regard to the whole or any part of the agricultural income of any class of persons.

(2) Notwithstanding anything contained in this Act, the Government may, in cases where they are satisfied that owners or cultivators of land have consolidated their holdings for purposes of beneficial enjoyment or for development of agriculture, allow such reduction in the rate of agricultural income-tax payable as may be prescribed in that behalf.

14. [1][* * *]

CHAPTER III

INCOME-TAX AUTHORITIES

Income-tax Authorities.

15. (1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely,—

(*a*) The Board of Revenue,

(*b*) The Commissioner of Agricultural Income-tax,

(*c*) Assistant Commissioners of Agricultural Income-tax,

(*d*) Agricultural Income-tax Officers.

(2) The authorities specified in sub-section (1) shall be appointed by the Government and shall exercise and perform in such areas, such powers and duties as the Government may, by notification in the Gazette, determine.

(3) The Government may, by notification in the Gazette, empower any other officers than the authorities specified in sub-section (1) to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as may be specified in the notification.

(4) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board of Revenue :

Provided that no such order, instruction or direction shall be given so as to interfere with the discretion of any appellate authority in the exercise of its appellate functions.

[1] Omitted by Act VI of 1955.

Chapter IV

APPELLATE TRIBUNAL

16. (1) The Government shall from time to time appoint, as and when may be necessary, an Appellate Tribunal consisting of one or more members — *The Appellate Tribunal*

[illegible] the Tribunal so ap- [illegible] ersons who are or [illegible] rank of a District Judge] or from among Advocates of at least ten years standing

(2) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure in all matters arising out of the discharge of its functions.

Chapter V

RETURN OF INCOME, ASSESSMENT, ETC

17. (1) Every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax shall furnish to the Agricultural Income-tax Officer so as to reach him before the 1st June every year a return in the prescribed form and verified in the prescribed manner, setting forth his total agricultural income during the previous year — *Return of income*

(2) In the case of any person whose total agricultural income is, in the opinion of the Agricultural Income tax Officer, of such amount as to render such person liable to payment of agricultural income tax for any financial year, he may serve in that year a notice in the prescribed form requiring such person to furnish within such period not being less than thirty days as may be specified in the notice a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total agricultural income during the previous year

(3) If any person has not furnished a return within the time allowed by or under sub section (1) or sub-section (2) or, having furnished a return under any of those sub-sections discovers any omission or wrong statement therein, he may furnish a return or a revised return as the case may be, at any time before the assessment is made

(4) The Agricultural Income-tax Officer may serve on any person who has made a return under sub section (1) or upon whom a notice has been served under sub section (2), a notice requiring him, on a date to be therein specified, to produce or cause to be produced, such accounts or documents as such officer may require

Provided that such officer shall not require the production of any accounts relating to a period more than three years prior to the previous year

Substituted by Act 2 of 1958

Assessment of income.

18. (1) If the Agricultural Income-tax Officer is satisfied that a return made under section 17 is correct and complete, he shall, by order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such return.

(2) If the Agricultural Income-tax Officer is not satisfied without requiring the presence of the person who made the return or the production of evidence that the return is correct and complete he shall serve on the person who made the return a notice requiring him on the date specified therein, either to attend the office of the Agricultural Income-tax Officer or to produce or to cause to be produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer after considering such evidence as such person may produce and such other evidence as that officer may require on specified points, assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such assessment.

(4) If any person fails to make a return under sub-section (2) of section 17, or fails to comply with all the terms of a notice issued under sub-section (4) of that section or under sub-section (2) of this section, the Agricultural Income-tax Officer shall make the assessment to the best of his judgement and determine the sum payable by the assessee on the basis of such assessment, and in the case of a firm, may refuse, to register it or may cancel its registration if it is already registered.

(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be—

(*a*) in the case of a registered firm the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed, and the sum payable by him on the basis of such assessment shall be determined:

Provided that, if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 12 :

Provided further that, when any of such partners is a person not resident in the State, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm; and

(*b*) in the case of an unregistered firm, the Income-tax Officer may, instead of determining the sum payable by the firm, itself proceed in the manner

laid down in clause (a) as applicable . . .
firm, if, in his opinic
tax including super-
ners under such prc
the aggregate amou
the firm and the partners individually if the firm were assessed as an unregistered firm

(6) When in the course of the assessment of the total agricultural income of the assessee it is found that a loss has been sustained which he is entitled to have set off under section 12 the Agricultural Income tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him

Cancellation of assessment in certain cases

19 Where an assessee, within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Agricultural Income-tax Officer that he was prevented by sufficient cause from making the return required by section 17 or that he did not receive the notice issued under sub section (2)

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with the terms of any such notice the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 18

Penalty for concealment of income

20. (1) If the Agricultural Income tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal is satisfied that any person—

(a) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish under sub-section (1) or sub-section (2) of section 17, or

(b) has without reasonable cause failed to furnish such return within the time allowed and in the manner required by sub section (1) of section 17 or by a notice served under sub section (2) of that section, or

(c) has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income, he may direct that such per-
s addition to the
a and super tax,
i exceeding that
amount

Provided that—

(a) no penalty shall be imposed under this sub section upon a person who has failed to furnish a return under sub-section (1) of section 17, if he proves that he has no income liable to tax,

(b) where a person has failed to comply with a notice under sub-section (2) of section 17 and proves that

he has no income liable to tax, the penalty imposable under this sub-section shall not exceed twenty-five rupees;

(*c*) no penalty shall be imposed under this sub-section upon any person assessable as the agent of any person not resident in the State for failure to furnish the return required under section 17 unless a notice under sub-section (2) thereof or under section 35 has been served on him;

(*d*) when the person liable to penalty is a registered firm or an unregistered firm treated under section 18(5)(*b*)as a registered firm, so that the amount of the agricultural income-tax and super-tax payable by the firm itself has not been determined, that amount shall be taken to be an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total agricultural income, and in the cases referred to in clauses (*b*) and (*c*) the amount of the agricultural income-tax and super-tax which would have been avoided if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total agricultural income and the amount of the tax payable by an unregistered firm on an income equal to the income of the firm as actually returned by the firm.

(2) If the Agricultural Income-tax Officer, the Assistant Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of the partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the agricultural income-tax and super-tax, if any, payable by him pay by way of penalty a sum not exceeding the amount of agricultural income-tax and super-tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(3) No order under sub-section (1) or sub-section (2) shall be made unless the assessee has been heard or has been given reasonable opportunity of being heard.

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under sub-section (1).

(5) If the Appellate Tribunal, the Commissioner or the Assistant Commissioner makes an order under sub-section (1) he shall forhwith send a copy of the same to the Agricultural Income-tax Officer concerned.

[1][21 (1) Where the Agricultural Income Tax Officer is satisfied that any association of individuals other than a Hindu undivided family, [2][Aliyasanthana family or branch, Marumakkathayam tarwad] or a company is under the control of one member thereof and that such association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income tax of any member thereof he may, with the previous approval of the Commissioner of Agricultural Income tax, pass an order that the sum payable as agricultural income tax by the association shall not be determined, and thereupon the share of each member in the agricultural income of the association shall be included in his total agricultural income for the purpose of his assessment thereon

Power to assess individual members of certain associations and companies

Explanation—A member of an association who owns the whole or the major portion of the capital of the association shall not by reason only of that fact be deemed to control the firm or association

(2) The Commissioner of Agricultural Income tax shall not give his approval to any order proposed to be passed by the Agricultural Income tax Officer under this section until he has given the firm, association or company concerned an opportunity of being heard

(3) Where any member of an association of individuals makes default in the payment of tax on his share of income which has been included in his total agricultural income under the provisions of sub section (1) such tax may be recovered from the association

(4) Where agricultural income tax is recoverable from a company or association under this section a notice of demand shall be served upon it in the prescribed form showing the sum so payable and such company or association shall be deemed to be the assessee in respect of such sum for the purposes of Chapter VI]

22 (1) Where it appears to the Agricultural Income tax Officer that any person intends to alienate his right title and interest in any land in the State and that such person may leave the State during the financial year or shortly after its expiry and that he has no present intention of returning the Agricultural Income tax Officer may proceed to assess him on his total agricultural income for the period from the expiry of the last previous year for which he has been assessed to the probable date of his departure from the State For each completed previous year included in this period an assessment shall be made on the total agricultural income of such person at the rate at which it would have been charged had such income been fully assessed, and for the period from the expiry of the last of such previous years to the probable date of departure the Agricultural Income tax Officer shall estimate the total agricultural income of such person and assess it at the rate applicable to agricultural income

Assessment in case of departure from the State

[1] by Act VI of 1955

[2] by Act 8 of 1957

Provided that nothing herein contained shall authorise an agricultural Income-tax Officer to assess any agricultural income, which has escaped assessment or has been assessed at too low a rate in respect of which he is debarred from issuing a notice under section 35.

(2) For the purpose of making an assessment under sub-section (1), the agricultural Income-tax Officer may serve a notice upon such person requiring him to furnish within such time not being less than four days as may be specified in the notice a return in the same form and verified in the same manner as a return under sub-section (2) of section 17, setting forth, along with such other particulars as may be provided for in the notice, his total agricultural income for each of the completed previous years comprised in the period first referred to in sub-section (1) and his estimated total agricultural income for the period from the expiry of the last such completed previous year to the probable date of his departure, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 17.

Assessment in case of transfer of right in land.

23. Where a person in receipt of Agricultural income from any land in the State is found to have transferred his interest in such land to another person, the transferor and the transferee shall each be assessed in respect of his actual share, if any, of such agricultural income :

Provided that when the transferor cannot be found, the assessment of such agricultural income of the previous year in which the transfer took place up to the date of the transfer and for the years preceding that year shall be made on the transferee in like manner and to the same amount as it would have been made on the transferor or when the tax in respect of the assessment made for any or all of such years assessed on the transferor cannot be recovered from him, it shall be payable by and recoverable from the transferee, and the transferee shall be entitled to recover from the transferor the amount of any tax so paid.

Tax of deceased person payable by representative.

24. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge the agricultural income-tax assessed as payable by such person or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before the 1st June in any year or before he is served with a notice under sub-section (2) of section 17 or under section 35, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 17 or under section 35, as the case may be, comply therewith, and the Agricultural Income-tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies without having furnished a return which he has been required to furnish under section 17, or having furnished a return which the Agricultural Income-tax Officer has reason to believe to be incorrect or incomplete, such officer may make an assessment of the total agricultural income of such person and determine the agricultural income tax payable by him on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representative of the deceased person, any accounts, documents or other evidence which he might under section 17 or section 18 have required from the deceased person

Assessment in case of discontinued business of company firm or association

25 (1) Where agricultural income is received by a company, firm or association of persons and the business through which such income is received is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance, in addition to the assessment, if any made on the basis of the agricultural income received in the previous year

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of such discontinuance within thirty days thereof and where any person fails to give the notice required by this sub section, such officer may direct that a sum shall be recovered from him by way of a penalty not exceeding the amount of agricultural income tax subsequently assessed on him in respect of any agricultural income of a company, firm or association of persons up to the date of the discontinuance of the business

(3) Where an assessment is to be made under sub section (1) the Agricultural Income tax Officer may serve on the person whose agricultural income is to be assessed or in the case of a firm on any person who was a member of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 17 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub section

Liability in case of discontinued business of firm or association

26. Where agricultural income is received by a firm or association of persons and the business of such firm or association is discontinued or such firm or association is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or member of such association shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income tax payable under this Act by such firm or association and all the provisions of this Act shall so far as may be, apply to such assessment

Procedure in registration of firms.

27. (1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of his Act and of any other enactment for the time being in force relating to agricultural income-tax or super-tax.

(2) The application shall be made by such person or persons and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed ; and it shall be dealt with by the Agricultural Income-tax Officer in such manner as may be prescribed.

Change in constitution of a firm and succession to business.

28. (1) Where at the time of making an assessment under section 18, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted, at the time of making the assessment.

If the agricultural income-tax cannot be recovered from the firm as so constituted, such tax shall be recoverable from the persons who were members of the firm during the previous year.

(2) Where a person carrying on any business in the course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year :

Provided that when the person succeeded in the business cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the preson succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.

Assessment after partition of a Hindu undivided family or Marumakkathayam tarwad.

29. (1) Where at the time of making an assessment under section 18, it is claimed by or on behalf of any member of a Hindu undivided family, or [1][Aliyasanthana family or branch or Marumakkathayam tarwad] hitherto assessed as undivided that a partition has taken place among the members or groups of members of such family or tarwad, the Agricultural Income-tax Officer shall make such inquiry thereinto as he may think fit, and if he is satisfied that joint family property has been partitioned among the various members or groups of members in definite portions he shall record an order to that effect :

[1]Substituted by Act 8 of 1957.

Provided that no such order shall be recorded until notice of the inquiry has been served on all the adult members of the family or tarwad entitled to the property as far as may be practicable or in such other manner as may be prescribed

(2) Where such an order has been passed, the Agricultural Income tax Officer shall make an assessment of the total agricultural income received by or on behalf of the family or tarwad as such, as if no partition had taken place, and each member of group of members shall, in addition to any agricultural income tax for which he or it may be separately liable, and notwithstanding anything contained in clause (a) of section 10, be liable for a share of the tax on the income so assessed according to the portion of the family or tarwad property allotted to him or it and the Agricultural Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 18

Provided that all the members and groups of members whose family or tarwad property has been partitioned shall be liable jointly and severally for the tax on the total agricultural income received by or on behalf of the family or tarwad as such up to the date of the partition

(3) Where such an order has not been passed in respect of a Hindu family, or [1][Aliyasanthana family or branch or Marumakkathayam tarwad] hitherto assessed as undivided, such family or tarwad shall be deemed for the purposes of this Act to continue to be an undivided family or tarwad

Notice of demand

30 When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act the Agricultural Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable

Appeal against assessment

31 (1) Any assessee objecting to the amount of income assessed or tax determined or loss computed under section 18 or denying his liability to be assessed under this Act or objecting to any order under any of the provisions of sections, [2][3A, 19, 20, 21, 25, 29 and 41] made by the Agricultural Income tax Officer or to the cancellation by him of the registration of a firm or to the refusal to register a firm may appeal to the Assistant Commissioner against the assessment or against such order

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 18

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner

(3) The appeal shall be presented within a period of thirty days from the date of service of the order, but the Assistant Commissioner may admit an appeal presented

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[1] Substituted by Act 8 of 1957

[2] Substituted by Act 13 of 1960

after the expiration of the said period, if he is satisfied that the appellant had sufficient cause for not presenting it within the said period.

(4) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make or cause to be made such further inquiry as he thinks fit :

Provided that on the application of the appellant and at his cost the Assistant Commissioner may, in appropriate cases, issue a commission to ascertain and report the yield and cultivation expenses or the rent and collection charges of the properties of the assessee included in the assessment order, and orders on the appeal shall be passed only after considering the said report.

(5) In disposing of an appeal, the Assistant Commissioner may—

(*a*) in the case of an order of assessment—

(*i*) confirm, reduce, enhance, or annul the assessment,

(*ii*) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after such further enquiry as may be directed; or

(*b*) in the case of any other order, confirm, cancel or vary such order :

Provided that no enhancement of an assessment or penalty shall be made under this section unless the appellant has had a reasonable opportunity of being heard against such enhancement :

Provided further that at the hearing of any appeal against an order of an Agricultural Income-tax Officer, the Agricultural Income-tax Officer shall have the right to be heard either in person or by a representative.

(6) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Assistant Commissioner may authorise the Agricultural Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.

(7) The Assistant Commissioner shall, on the conclusion of the appeal, communicate the orders passed by him to the assessee and to the Commissioner.

Appeals against orders of Assistant Commissioner.

32. (1) Any assessee objecting to an order passed by an Assistant Commissioner under section 20 or section 31 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him.

(2) The Commissioner may, if he objects to any order, passed by an Assistant Commissioner under section 31,

direct the Agricultural Income tax Officer to appeal to the Appellate Tribunal against such order and such appeal may be made within sixty days of the date on which the order is communicated to the Commissioner by the Assistant Commissioner

(3) The Appellate Tribunal may admit an appeal after the expiry of the sixty days referred to in sub sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub section (2), be accompanied by a fee of fifty rupees

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner

(6) Where as the result of an appeal any change is made in the assessment of a firm or association of person or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may authorise the Agricultural Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association

(7) Save as provided in section 60, orders passed by the Appellate Tribunal on appeal shall be final

Appeal against an order of refusal to refund

33 The provisions of sections 31 and 32 shall so far as may be apply to any order of refusal of any refund admissible under this Act or the rules made thereunder

Revision

34. (1) The Commissioner may of his own motion or on application by an assessee, call for the record of any proceeding under this Act which has been taken by any authority subordinate to him and may make such enquiry or cause such enquiry to be made, and subject to the provisions of this Act, may pass such orders thereon as he thinks fit

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard

Provided further that an order passed declining to interfere shall not be deemed to be an order prejudicial to the assessee

(2) Any order passed under sub-section (1) shall be final subject to any reference that may be made to the High Court under section 60

Income escaping assessment

35 If for any reason agricultural income chargeable to tax under this Act has escaped assessment in any financial year or has been assessed at too low a rate, the Agricultural Income-tax Officer may, at any time within three years,

of the end of that year serve on the person liable to pay the tax or in the case of a company on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 17 and may proceed to assess or re-assess such income and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be.

Rectification of mistake.

36 (1) The Authority which passed an order on appeal or revision may at any time whithin three years from the date of such order passed by him on appeal or in revision, and the Agricultural Income-tax Officer may at any time within three years from the date of any assessment or refund order passed by him, of his own motion, rectify any mistake, apparent from the record of the appeal, revision, assessment or refund as the case may be and shall within the like period rectify any such mistake which has been brought to his notice by an assessee :

Provided that no such rectification shall be made having the effect of enhancing an assessment or reducing a refund unless the appellate or revisional authority or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 30 and the provisions of this Act shall apply accordingly.

Tax can be collected to the nearest anna.

37. In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take evidence on oath. etc.

38. The Appellate Tribunal, Commissioner, the Assistant Commissioner and the Agricultural Income-tax Officer shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Travancore or Cochin Code of Civil Procedure, when trying a suit, in respect of the following matters, namely,—

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses, and for ascertaining the yield and cultivation expenses in respect of any land, and any proceeding before the Appellate Tribunal the Commissioner, Assistant Commissioner or Agricultural Income tax Officer shall be deemed to be a "Judicial proceeding" within the meaning of sections 187 and 226 and for the purposes of section 190 of the Travancore Penal Code or the corresponding sections 179, 214 and 182 of the Cochin Penal Code

Power to call for information

39 The Agricultural Income tax Officer or the Assistant Commissioner may for the purposes of this Act—

(i) require any firm to furnish a return of the names of all the members of the firm their addresses and such other particulars as may be required for the purpose of assessment

(ii) require any person whom he has reason to believe to be a trustee, guardian or agent to furnish him with a return of the names of the persons for or of whom he is trustee guardian or agent and of their addresses

CHAPTER VI

RECOVERY OF TAX AND PENALTIES

Recovery of tax and penalties

40 Any amount specified as payable in a notice of demand under section 30 or an order under sections 31, 32 or 33 shall be paid in such number of instalments, within such time, at such place and to such person as may be specified in the notice or order, or if a time is not so specified then on or before the first day of the second month following the date of the service of the notice or order and any assessee failing so to pay shall be deemed to be in default

Provided that when an assessee has presented an appeal under section 31, the Agricultural Income tax Officer may in his discretion treat the assessee as not being in default so long as such appeal is undisposed of

Mode and time of recovery

41 (1) When an assessee is in default in making a payment of Agricultural income tax, the Agricultural Income tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty

(2) For the purposes of sub section (1) the Agricultural Income tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable

(3) The Agricultural Income tax Officer may forward to the Collector a certificate under his signature specifying

the amount of arrears due from an assessee and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue :

Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have the powers which under the Travancore or Cochin Code of Civil Procedure, a Civil Court has for the purpose of the recovery of an amount due under a decree.

(4) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of three years from the latest day fixed for payment in the notice of demand served under section 30 or where the assessee has been treated as not being in default under the proviso to section 40 pending his appeal, after the expiration of three years from the date on which the appeal is decided.

Right, title and interest in property sold for arrears of tax in certain cases.

42. (1) Where any property of a Hindu undivided family or [1][Aliyasanthana family or branch or Marumakkathayam tarwad] is sold for the realisation of arrears of agricultural income-tax, the right, title and interest of all the members of such family or tarwad in the property shall pass to the purchaser.

(2) Where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the land so held by him may be attached and sold for the realisation of such arrears and on such sale, the right, title and interest of such person in the said land shall pass to the purchaser.

Recovery of penalties.

43. Any sum imposed by way of penalty under the provisions of section 20, section 25 or section 41 shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

CHAPTER VII

REFUNDS

Refunds.

44. (1) If any person satisfies the Agricultural Income-tax Officer that the amount of agricultural income-tax paid by him [2][..................................] for any year exceeds the amount with which such person is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

(2) The appellate or revisional authority in the exercise of his appellate or revisional powers, if satisfied to the like effect shall cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

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[1] Substituted by Act 8 of 1957.

[2] Omitted by Act VI of 1955.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person, such other person only shall be entitled to a refund under this section in respect of such income

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorize the revision of any assessment or other matter which has become final and conclusive or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other than or greater than that relief

Reciprocal relief in respect of double taxation with other Governments

45. The Government may, by notification in the Gazette make provision for the granting of relief in respect of agricultural income on which both agricultural income-tax under this Act and other income tax have been paid

Explanation—For the purpose of this section 'other income tax' means any income-tax, super tax or sur tax charged under any law in force in any part of His Majesty's Dominions or the United Kingdom the laws of which provide for relief in respect of the tax charged on the agricultural income both under this Act and the laws of the Dominions or the United Kingdom as the case may be, which appears to Government to correspond to the relief which may be granted under this section

[1][**46** and **47** * * *]

Power to set off amount of refund against tax remaining payable

48. Where under any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income-tax Officer, the Assistant Commissioner or the Commissioner, as the case may be, may in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount, against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due

Power of representative of deceased person or persons disabled to make claim on his behalf

49. Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 44 is unable to receive such refund or to make such claim, his executor, administrator or other legal representative or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate

Limitation of claims for refund

50. No claim to any refund of agricultural income-tax under this Chapter shall be allowed unless it is made within three years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received

[1] Omitted by Act VI of 1955

CHAPTER VIII

OFFENCES AND PENALTIES

False statements in declaration.

51. If any person makes a statement in a verification mentioned in section 17 or sub-section (2) of section 31 or sub-section (4) of section 32 which is false and which he either knows or believes to be false or does not believe to be true he shall be deemed to have committed the offence described in section 170 of the Travancore Penal Code or section 163 of the Cochin Penal Code.

Failure to furnish return or to supply information.

52. If any person fails without reasonable cause or excuse—

(*a*) to furnish in due time any of the returns specified in sub-section (1) or sub-section (2) of section 17, [1][* * *] or section 39; or

[1][(*b*) * * *];

(*c*) to grant inspection or allow copies to be taken in accordance with the provision of section 66; or

(*d*) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) of section 17, such accounts or documents as are referred to in the notice; he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

Prosecution to be at the instance of the Assistant Commissioner.

53. (1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the Assistant Commissioner.

(2) Before instituting proceedings against any person under sub-section (1) the Assistant Commissioner shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The Assistant Commissioner may either before or after the institution of proceedings compound any such offence.

Disclosure of information by public servant.

54. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act other than proceedings under this Chapter or in any record of an assessment proceeding or any proceeding relating to the recovery of a demand prepared for the purposes of this Act shall be treated as confidential and notwithstanding anything contained in the Travancore or Cochin Evidence Act, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of such record or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, document, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

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1. Omitted by Act VI of 1955.

(3) Nothing contained in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of a prosecution under the Travancore or Cochin Penal Code, in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition or for the purposes of a prosecution under this Act, or

(*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

(*d*) of any such particulars to a Civil Court in any suit to which the Government are a party which relates to any matter arising out of any proceeding under this Act , or

(*e*) of any such particulars to any officer appointed to audit agricultural income tax receipts or refunds, or

(*f*) of any such particulars relevant to any enquiry into the conduct of an official of the Agricultural Income-tax Department to any persons appointed as commissioners under any law relating to enquiries into the conduct of public servants or to an officer appointed to hold such enquiry or to the State Public Service Commission when exercising its functions in relation to any matter arising out of any such enquiry, or

(*g*) of any such particulars relevant to any inquiry into a charge of misconduct in connection with the proceedings under this Act against a lawyer or registered accountant, or

(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the United State of Travancore and Cochin Stamp Act, 1125, to impound an insufficiently stamped document, or

(*i*) of such facts to enable a refund to be given in accordance with this Act or the rules made thereunder, or

(*j*) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it, or

(*k*) of such facts to any authority exercising powers under any Act of the Legislature imposing any tax or duty as may be necessary for enabling it duly to exercise such powers, or

(*l*) of such facts as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll; or

(*m*) of such particulars, to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to agricultural income-tax in any particular year or years where under the provisions of any law for the time being in force such fact is required to be established; or

(*n*) of such particulars in any rent-roll or other document produced by any assessee as the basis of his agricultural income or any part of such income; or

(*o*) of such facts as may be necessary to enable an intending purchaser or other transferee of property to ascertain the nature and extent of the liability of any such property for agricultural income-tax.

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed or the record of any statement or deposition made, in a proceeding under section 29 or to the giving of evidence by a public servant in respect thereof.

(5) No prosecution shall be instituted under this section except with the previous sanction of Government.

Cognizance of offences.

55. No Magistrate other than a Magistrate of the first class or a Magistrate of the second class specially empowered in this behalf by the Government shall try any offence against this Act.

CHAPTER IX

SUPER-TAX

Charge of super-tax.

56. In addition to the agricultural income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total agricultural income of the previous year of any individual, Hindu undivided family, undivided [1][Aliyasanthana family or branch or Marumakkathayam tarwad], company, unregistered firm or other association of persons not being a registered firm, or the partners of the firm or members of the association individually an additional duty of agricultural income-tax (in this Act referred to as super-tax) at the rate or rates laid down in Part II of the Schedule:

Provided that where under the provisions of clause (b) of sub-section (5) of section 18 an unregistered firm has been assessed in the manner applicable to a registered firm, super-tax shall be payable by each partner of the firm individually on his share in the income, profits and gains of the firm and not by the firm itself:

Provided further that, when the profits and gains of an unregistered firm or other association of persons not being a company have been assessed to super-tax, super-tax shall not

[1]. Substituted by Act 8 of 1957.

be payable by a partner of the firm or a member of the association, as the case may be, *in respect of the* amount of such profits and gains which is proportionate to his share

57. Subject to the provisions of this Chapter the total ... income of any individual, Hindu undivide [1][Aliyasanthana family or branch or ... tarwad], company, unregistered firm, or ... persons shall, for the purposes of super-tax, be the total agricultural income as assessed for the purposes of agricultural income-tax and where an assessment of total income has become final and conclusive for the purposes of agricultura income-tax for any year, the assessment shall also be final and conclusive for the purposes of super tax for the same year

[2][58. All the provisions of this Act relating to the charge, assessment, collection and recovery of agricultural income tax except those contained in sub section (1) of section 3 and clauses (c), (d) and (e) of section 10 shall apply so far as may be, to the charge, assessment, collection and recovery of super-tax] Application of Act to super-tax

CHAPTER X

*MISCELLANEOUS

59 (1) Subject to any orders passed under sub-section (2)' the agricultural income of a person shall be assessed by the Agricultural Income tax Officer of the area in which is situated the land from which the greater part of the income is derived Place of assessment

Provided that where an assessee has made a return under sub section (1) of section 17 to the Agricultural Income-tax Officer having jurisdiction over the assessee's place of residence or the place where any of his lands is situated or where his accounts are maintained, he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the officer concerned unless for reasons to be recorded in writing he passes an order that the assessment shall be made in any other place

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[1] Substituted by Act 8 of 1957

[2] Substituted by Act VI of 1955

* Section 3 of the Agricultural Income-tax (Amendment) Act, 1961 (Act 9 of 1961) is given elow

3 *Validation of certain Proceedings* —Notwithstanding anything contained in any judgement, decree or order of any court —

(a) all taxes levied, assessed or collected under the principal Act shall for all purposes be deemed to be and to have always been levied, assessed or collected under that Act as amended by this Act, and

(b) all proceedings taken, orders passed and acts done by any officer, authority or tribunal under the principal Act shall for all purposes be deemed to be and have always been validly taken passed and done, and all such proceedings, orders and actions may be continued as if they were taken, passed and done under the principal Act as amended by this Act

Provided that nothing contained in this section shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or ommission was not an offence under the principal Act at the afforesaid date but for the provisions of this Act.

(2) (*a*) An assessee who has not made a return under section 17 may, before the expiry of the time allowed for the submission of the return, apply to the Agricultural Income-tax Officer of the area in which is situated the land from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the State, and the Agricultural Income-tax Officer shall refer the matter to the Assistant Commissioner whose decision thereon shall be final.

(*b*) Where an order is passed under clause (a), the assessee shall not be entitled to make any further application to change his place of assessment :

Provided that the Agricultural Income-tax Officer may allow the assessee to be assessed at any other place upon such condition as he thinks fit.

(3) Notwithstanding anything contained in this section every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on an Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area for which he is appointed.

Statement of case to High Court.

60. (1) Within sixty days of the date upon which he is served with notice of an order under sub-section (5) of section 32, the assessee or the Commissioner may, by application in the prescribed form, accompanied, where application is made by the assessee, by a fee of fifty rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court.

(2) Within sixty days of the date on which he is served with a notice of an order under section 34 enhancing an assessment or otherwise prejudicial to him, the assessee in respect of whom the order was passed may, by application, accompanied by a fee of fifty rupees, require the Commissioner to refer to the High Court any question of law arising out of such order, and the Commissioner shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it with his opinion thereon to the High Court :

Provided that, if in the exercise of the powers under sub-section (3), the Appellate Tribunal or the Commissioner, as the case may be, refuses to state the case required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded.

(3) If on any application being made under sub-section (1) or sub-section (2) the Appellate Tribunal or the Commissioner refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, in the case of an application under sub-section (1) or the assessee in the case of an application under sub-section (2) may, within six months from the date on which he is

served with notice of the refusal, apply to the High Court

and on receipt of any such requisition the Appellate Tribunal or the Commissioner, as the case may be, shall state the case and refer it accordingly

(4) If on any application being made under sub-section (1) or sub-section (2) the Appellate Tribunal or the Commissioner rejects it on the ground that it is time barred, the assessee or the Commissioner, as the case may be, in the case of an application under sub-section (1) and the assessee in the case of an

Appellate Tribunal or the Commissioner, as the case may be, to treat the application as made within the time allowed under sub-section (1)

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal or the Commissioner, as the case may be, to make such additions thereto or alterations therein as the Court may direct in that behalf

(6) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar, to the Appellate Tribunal or the Commissioner, as the case may be, for passing such orders as are necessary to dispose of the case conformably to such judgment

(7) Where a reference is made to the High Court, the costs shall be in the discretion of the Court

(8) N ... ference has been made ... agricultural income-tax ... the assessment made in the case

Provided that if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow

(9) Section 5 of the Travancore or Cochin Limitation Act shall apply to an application to the High Court by an assessee under sub-section (3) or sub-section (4).

(10) When any person defaults to pay the costs ordered by the High Court, the Agricultural Income-tax Officer concerned may apply, for the realisation of the amount, to the ... and such Court shall,

ppearance authorised presentative.

61. (1) Any assessee who is entitled or required to attend before any Agricultural Income-tax Authority in connection with any proceeding under this Act otherwise than when required under section 38 to attend personally for examination on oath or affirmation, may attend either in person or by any person duly authorized by him in writing in this behalf being a relative or a person wholly or principally employed in the service of the assessee or a lawyer or an accountant or an income-tax practitioner and not being disqualified on the ground of misconduct by or under any law or under any order of Government.

(2) In this section—

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings;

(ii) "lawyer" means any person entitled to plead in any court of law in the State ;

(iii) "accountant" means a member of an association of accountants recognised in this behalf by the Government;

(iv) "Income-tax practitioner" means—

(a) any person who, before the first day of Chingom 1122, attended before an Income-tax Authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee,

(b) any person who has passed any accountancy examination recognised in this behalf by the Government, or

(c) any person who has acquired in any educational institution recognised in this behalf by the Government qualifications recognised by the Government.

Receipt to be given.

62. A receipt shall be given for any money paid or recovered under this Act.

Indemnity.

63. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.

Manner of service of notice.

64. (1) A notice or requisition under this Act may be served on the person therein named either by Post or Anchal or, as if it were a summons issued by a Court under the Travancore or Cochin Code of Civil Procedure.

(2) Any such notice or requisition may, in the case of a firm, Hindu undivided family or [1][Aliyasanthana family or branch or Marumakkathayam tarwad] and be addressed to any member of the firm or to the manager or Karnavan, or

[1] Substituted by Act 8 of 1957.

any adult member of the family or tarwad and, in the case of any other association of persons be addressed to the principal officer thereof

65. The Agricultural Income tax Officer may in his discretion, in the case of any person or class of persons, extend the date before which the return under sub section (1) of section 17 has to be furnished or, on application by an assessee, allow him such extension or extensions of time as the officer thinks fit to furnish the return or comply with the terms of a notice under this Act

Power to grant extension of time for returns etc

66. Any Agricultural Income tax authority or any person authorized by him in writing in that behalf may inspect and, if necessary take copies or cause copies to be taken of any register of the members debenture holders or mortgagees of any company or of any entry in such register

Power to inspect registers of members of company etc

67 (1) The Government may, after previous publication, make rules for carrying out the purposes of this Act

Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules—

(*a*) as to the manner in which and the procedure by which agricultural income of a person shall be computed,

(*b*) as to the deductions to be made in the computation of agricultural income,

(*c*) as to the special deductions and allowances in respect of cocoanut and other plantations fruit gardens and the like where expenditure has to be incurred for a number of years, before income is derived therefrom,

[(*cc*) as to the manner in which and the time within which applications under section 3A shall be made and the form of, and the particulars to be contained in such applications]

(*d*) as to the form of returns under section 17 and the manner in which they should be verified,

(*e*) as to the form of the notice of demand mentioned in section 30,

(*f*) as to the powers and duties of Income tax authorities appointed under sub section (2) of section 15 the relation of such authorities to each other and the conditions of service of such authorities,

(*g*) as to the form in which appeals under section 31 shall be presented and the manner in which they shall be verified,

(*h*) as to the form of the notice of demand mentioned in sub section (3) of section 36,

(*i*) as to the manner in which and the authority to whom applications for refund shall be made and the procedure to be followed in respect of such applications,

Inserted by Act 13 of 1960

(*j*) as to all other matters expressly required or allowed by this Act to be prescribed.

(3) All rules under this section shall be published in the Gazette and on such publication shall have effect as if enacted in this Act.

Bar of suits in Civil Courts.

68. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act.

Computation of period of limitation.

69. In computing the period of limitation prescribed for any appeal under this Act or for any application under section 60, the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Power to alter Schedule.

70. The Government may make rules altering, adding to or cancelling the Schedule to this Act.

Repeal and saving.

[1][**71.** (1) The Travancore Income-tax Act 1121 as subsequently amended, and the Cochin Income-tax Act, VI of 1117 as subsequently amended, in so far as they relate to tax on agricultural income are hereby repealed: Act of 1[?]2

Provided that any reference in the said Acts to an officer authority, tribunal, or court shall be construed as a reference to the corresponding Officer, authority, tribunal, or court appointed or constituted under this Act, and if any question arises as to who such corresponding officer, authority, tribunal or court is, the decision of the Government thereon shall be final.

(2) Nothing contained in sub-section (1) shall affect the liability of any person to pay any sum due from him or any existing right of refund under the said Acts.]

[1] Substituted by Act II of 1951.

[1][SCHEDULE]

PART I

(*See* section 3)

Rates of Agricultural Income tax

		Rate
1	On the first Rs 1,500 of total agricultural income .	Nil
2	On the next Rs 3 500 of the total agricultural income	Five naye paise in the rupee
3	On the next Rs 5,000 of the total agricultural income	Eleven naye paise in the rupee
4.	On the next Rs 5 000 of the total agricultural income	Eighteen naye paise in the rupee
	On the balance of the total agricultural income	Twenty five naye paise in the rupee

Provided that no agricultural income-tax shall be payable on a total agricultural income hich is less than [2][three thousand and six hundred rupees]

The limit referred to in the above proviso shall be Rs 6,000 in the case of every Hindu divided family or an Aliyasanthana family or branch or a Marumakkathayam tarwad inuding a Nambudiri family or a family like that of the Moothathu or any other class gover d by the law applicable to Nambudiris, which satisfies as at the end of the previous year the ndition that it consists of at least five members

Provided further that—

(1) the agricultural income tax payable shall in no case exceed one half of the amount which the total agricultural income exceeds [2][three thousand and six hundred rupees] or six ousand rupees, as the case may be ,

(2) in the case of every company, agricultural income tax shall be charged at the maximum te on the whole of the total agricultural income]

[1][PART II]

(*See* section 56)

Rates of Super tax

[A In the case [illegible] or an Aliyasanthana family [illegible] ed firm and other association [illegible]

		Rate
	On the first Rs 25 000 of the total agricultural income	Nil
	On the next Rs 15,000 of the total agricultural income	Twelve naye paise in the rupee
	On the next Rs 15 000 of the total agricultural income	Sixteen naye paise in the rupee
	On the next Rs 15,000 of the total agricultural income	Twenty two naye paise in the rupee
	On the next Rs 15,000 of the total agricultural income	Twenty-eight naye paise in the rupee
6	On the balance of the total agricultural income	Thirty four naye paise in the rupee]

[1] Substituted by Act 8 of 1957
[2] Substituted by Act 13 of 1960
[3] Substituted by Act 9 of 1961

B. In the case of every Company—	*Rate*
1. Up to the first Rs. 1 lakh of the total agricultural income.	Twelve naye paise in t rupee.
2. On the next Rs. 2 lakhs of the total agricultural income .	Nineteen naye paise in t rupee.
3. On the next Rs. 7 lakhs of the total agricultural income .	Twenty-five naye paise the rupee.
[1][4. On the balance of the total agricultural income . .	Thirty-one naye paise in t rupee.]

[1] Substituted by Act 9 of 1961.

THE KERALA SURCHARGE ON TAXES ACT, 1957*

[KERALA ACT 11 OF 1957]

An Act to provide for levy of surcharges on certain taxes

Whereas it is considered necessary to increase the taxes on agricultural income, taxes on the sale or purchase of goods and taxes on profession, by the levy of a surcharge on such taxes

Preamble

BE it enacted in the Eighth year of the Republic of India as follows —

1 (1) This Act may be called the Kerala Surcharge on Taxes Act, 1957

Short title extent and commencement

(2) It extends to the whole of the State of Kerala

(3) It shall come into force on such date as the Government may by notification in the Gazette appoint

2 The income tax or super tax payable by any person assessed to such tax under the Agricultural Income tax Act 1950, shall be increased by a surcharge at the rate of five per centum of the tax payable each year, and the provisions of the Agricultural Income tax Act, 1950, shall apply to the levy and collection of the said surcharge

Levy of surcharge on agricultural income tax

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*Sections relating to agricultural income-tax alone are given here

THE BHOPAL STATE AGRICULTURAL INCOME-TAX ACT, 1953

[Act No. IX of 1953]

An Act to Provide for the Imposition of a Tax on Agricultural Income in the Bhopal State

Chapter I

PRELIMINARY

Short title, extent and commencement.

1. (*i*) This Act may be called the Bhopal State Agricultural Income-tax Act, 1953.

(*ii*) It extends to the whole of the Bhopal State.

(*iii*) It shall be deemed to have come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes and either assessed to land revenue or is subject to a local rate assessed and collected by officers of the Government as such,

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him.

(2) "agricultural income-tax" means tax payable under the Act and includes super-tax ;

(3) "Collector" and "Deputy Collector incharge of a Sub-Division" shall have the same meaning as assigned to "Nazim" and "Naib-Nazim incharge of a Sub-Division" respectively in the Bhopal State Land Revenue Act, 1932 ;

(4) "assessee" means a person by whom agricultural income-tax is payable ;

(5) "assessing authority" means a person authorized by the State Government to assess agricultural income tax;

(6) "cultivator" means any person who cultivates land and includes a Jagirdar, a muafidar, an occupant and a shikmi as defined in the Bhopal State Land Revenue Act, 1932; IV of 1932.

(7) "company" means a company as defined in the Indian Income Tax Act, 1922. Act XI o[f] 1922.

of (8) "firm" has the meaning assigned to it in the Indian Partnership Act, 1932,

(9) "person" means an individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for that of another either as owner, trustee, receiver, manager administrator or executor or in any capacity recognized by law, and includes an undivided Hindu 'family', firm or company, but does not include a local authority or a Government firm ,

(10) "prescribed" means prescribed by rules made under this Act ,

(11) "previous year" means the twelve months ending on the 31st day of May preceding the year for which the assessment is to be made ,

(12) "principal officer" used with reference to any company or association means—

(i) the Secretary, Treasurer, manager or agent of the company or association, or

(ii) any person connected with the company or association upon whom the assessing authority has served notice of his intention of treating him as principal officer thereof,

(13) "public servant" has the same meaning as in the
1860 Indian Penal Code,

(14) "total agricultural income" means the aggregate of the amounts of agricultural income of the different classes specified in sections 5 and 6 determined respectively in the manner laid down in the said sections and includes all receipts of the description specified in clauses (*a*) and (*b*) of sub section (1) of section 2,

(15) "year" means the agricultural year as defined in the Bhopal State Land Revenue Act, 1932 ,

(16) "State Government" for the purpose of this Act shall mean the Chief Commissioner of Bhopal ,

(17) "Revenue Commissioner" means any person appointed by the State Government to perform the duties of Revenue Commissioner under this Act, and

(18) "Judicial Commissioner" includes Additional Judicial Commissioner

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

3 Agricultural income-tax and super-tax at the rate or rates specified in the schedule shall be charged for each year in accordance with, and subject to the provisions of this Act and rules framed under clauses (*a*), (*b*) and (*c*) of sub-section (2) of section 43 on the total agricultural income of the previous year of every person

Charge of agricultural income-tax.

Limit of taxable income.

4. Agricultural Income-tax shall be payable by a person whose total agricultural income of the previous year exceeds Rs. 3,000/-, or in the case of any society, trust or other association of individuals, such higher figure as may be prescribed :

[* * * * *]

Determination of agricultural income.

5. The agricultural income mentioned in clause (*a*) of sub-section (1) of seciton 2 shall be deemed to be the sum realized in the previous year on account of agricultural income mentioned in the said clause (*a*), after making the following deductions :

(*a*) any sums paid in the previous year on account of land revenue, rent, abwab, and other cesses in respect of the entire land from which agricultural income may be derived ;

(*b*) collection charges on the sum realised in the previous year at the following rate :—

On first Rs. 10,000/-	.	12 per cent.
On next Rs. 90,000/-	.	11 per cent.
On any amount above Rs. 1 lakh.		10 per cent.

(*c*) any expense incurred in the previous year on the construction or maintenance of any irrigation productive or protective work constructed for the benefit of the land from which such agricultural income is derived; and

(*d*) any interest paid in the previous year on any mortgage or other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived.

Computation of agricultural income.

6. (1) The agricultural income mentioned in sub-clauses (*i*) and(*ii*) of section (*b*) of sub-section (1) of section 2 shall at the option of the assessee, be computed in accordance with clause (*a*) or clause (*b*) of sub-section (2) :

Provided that an assessee, who has once exercised his option shall not be entitled to vary the method of computation except with the permission of the Revenue Commissioner.

(2) (*a*) Subject to such deduction in respect of agricultural calamities as may be prescribed, the income shall be deemed to be such multiple, not exceeding $7\frac{1}{2}$ of the rent or revenue of the land calculated at the latest sanctioned assessment rates applicable to cultivators of similar class of soil, as may be fixed by the Government for each district or portion thereof :

Provided that the Government may direct that the multiple for calculating income from land newly brought under cultivation shall, for the specified number of years be such lower figure as may be specified, or

[1]. Deleted by Bhopal Act No. III of 1954. Section 2.

from such Court of Wards or Official Trustee, in the like manner and to the same extent as would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act, shall apply accordingly

(3) Notwithstanding anything contained in sub-section (1), the appropriate assessing authority may in his discretion, assess the tax directly on the person on whose behalf the agricultural income-tax is receivable by such Court of Wards of the Official Trustee

Exemption from assessment of income-tax

11. Agricultural income-tax shall not be payable by a person on—

(a) any sum which he receives as a share holder out of the agricultural income of a Company which has certified that it has paid or will pay the tax under this Act in respect of the agricultural income of such Company ,

(b) any sum which he receives as his share out of the agricultural income of a firm or association of individuals, if the tax under this Act, has been levied on the agricultural income of such firm or association,

(c) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 10 ,

(d) any sum paid by such person to effect an insurance on the life of such person or on the life of a wife or husband or dependent son of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or dependent son of such person, as the case may be, provided that the aggregate of any sums exempted under this clause shall not exceed one sixth of the total agricultural income of the assessee or Rs 6,000/- whichever be the less

Provided further that nothing contained in this clause shall be deemed to entitle a person who is assessed to income-tax under the Income-tax Act, 1922, to claim any exemption, in respect of any sum referred to in this clause if it was exempted under section 15 of the said Act XI of 1922

Agricultural income accruing in Bhopal State to persons residing outside the State

12. In the case of any person residing outside the Bhopal State, all agricultural income accruing or arising to such person whether directly or indirectly through or from any land in the State shall be deemed to be derived within the State and shall be chargeable to agricultural income tax in accordance with the provisions of this Chapter

Chapter III

ASSESSING AUTHORITIES

Assessing authorities

13. (1) For the purposes of this Act, every Collector, and Deputy Collector in charge of a sub-division shall be the assessing authority and shall exercise and perform within his revenue jurisdiction such powers and duties as may be

(x) any interest paid in the previous year in respect of loans taken under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884; and XIX of 1883. XII of 1884.

(xi) such other deductions as may be prescribed:

Provided always that no deduction shall be made under this clause if it has already been made under section 5.

(3) If the assessing authority is satisfied that the proceeds of sale have not been correctly shown by the assessee or that any portion of the produce has not actually been sold, he may assess the value of the produce for purpose of clause (b) of sub-section (1) of section 2 by determining, to the best of his judgement the amount of produce and the market value thereof.

Exclusion of income from trust etc.

7. Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes and, in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto, shall be exempt from liability to tax under this Act.

Income from waqfs.

8. Income derived from a Trust referred to in section 3 of the Muslman Waqfs Validating Act, 1913, commonly known as waqf-alalaulad shall be assessed as income of individual provided that the part of the income actually spent on public charitable purposes shall be exempt from liability to tax.

Assessment of income of undivided Hindu family.

9. Tax on agricultural income of an undivided Hindu family shall be so assessed that the share of income which a coparcener would receive upon partition of the family shall be treated as the separate income of each coparcener and shall be liable to tax as such, provided, firstly that a father and a son or a son's son how-low-soever shall be deemed to be one coparcener for the purpose of this section, and provided, secondly that the income derived by a woman from her *Stridhan* property shall not be included in the agricultural income of the Joint Hindu family.

Assessment to tax on common manager, receiver etc.

10. (1) When any person holds land, from which agricultural income is derived as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom the aggregate of the sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received by him, shall be assessed on such common manager, receiver, administrator or the like, and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

Court

(2) In the case of agricultural income taxable under of this Act which is received by the Court of Wards or the Trustee the tax shall be levied upon and recoverable

from such Court of Wards or Official Trustee, in the like manner and to the same extent as would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act, shall apply accordingly

(3) Notwithstanding anything contained in sub-section (1), the appropriate assessing authority may in his discretion, assess the tax directly on the person on whose behalf the agricultural income-tax is receivable by such Court of Wards of the Official Trustee

11. Agricultural income-tax shall not be payable by a person on— Exemption from assessment of income-tax

(*a*) any sum which he receives as a share-holder out of the agricultural income of a Company which has certified that it has paid or will pay the tax under this Act in respect of the agricultural income of such Company ,

(*b*) any sum which he receives as his share out of the agricultural income of a firm or association of individuals, if the tax under this Act, has been levied on the agricultural income of such firm or association,

(*c*) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 10 ,

(*d*) any sum paid by such person to effect an insurance on the life of such person or on the life of a wife or husband or dependent son of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or dependent son of such person, as the case may be, provided that the aggregate of any sums exempted under this clause shall not exceed one sixth of the total agricultural income of the assessee or Rs 6,000/- whichever be the less

Provided further that nothing contained in this clause shall be deemed to entitle a person who is assessed to income-tax under the Income-tax Act, 1922, to claim any exemption, in respect of any sum referred to in this clause if it was exempted under section 15 of the said Act

of 1922

12. In the case of any person residing outside the Bhopal State, all agricultural income accruing or arising to such person whether directly or indirectly through or from any land in the State shall be deemed to be derived within the State and shall be chargeable to agricultural income-tax in accordance with the provisions of this Chapter Agricultural income accruing in Bhopal State to persons residing outside the State

CHAPTER III

ASSESSING AUTHORITIES

13. (1) For the purposes of this Act, every Collector, and Deputy-Collector in charge of a sub-division shall be the assessing authority and shall exercise and perform within his revenue jurisdiction such powers and duties as may be Assessing authorities

prescribed, provided that the State Government may appoint any officer as an assessing authority for such area as may be prescribed.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the following authorities shall be assessing authorities in the cases mentioned against each, namely :—

(a) Deputy Collector Incharge of subdivision.	Where the gross agricultural income does not exceed rupees one lakh.
(b) Collector	In all cases.
(c) Official appointed under proviso to sub-section (I).	In such cases as may be prescribed.

CHAPTER IV

ASSESSMENT DEDUCTION AND EXEMPTION

Return of income.

14. (1) The Collector shall, on any such day as may be fixed by the State Government, give notice, by publication in the Government Gazette and in such other manner as may be prescribed requiring every person or principal officer of every company, whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax to furnish to such assessing authority and within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be required by the notice) his total agricultural income or the agricultural income of the company during the previous year :

Provided that the assessing authority specified in the notice may in his discretion extend the date for the delivery of the return in the case of any person or class of persons or any company or class of companies.

(2) In the case of any person or company whose total agricultural income is, in the opinion of the assessing authority, such amount as to render such person or company liable to payment of agricultural income-tax in any year, he may serve in that year a notice in the prescribed form requiring such person to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total agricultural income during the previous year :

Provided that the assessing authority may in his descretion extend the date for delivery of the return.

*"(2-A) Where the notice served under sub-section (2) is subsequently dissvered to be defective, and it is necessary to serve a frechonotice, eht same may be served notwithstanding that the year may have expired

Provided that the former notice was served in time"

(3) If any person having furnished a return under sub-section (1) or (2) discovers any ommission or wrong statement therein, he may furnish a revised return at any time before the assessment is made and any return so made shall be deemed to be made in due time under this section

15. (1) If the assessing authority is satisfied that a return made under section 14 is correct and complete, he shall assess the total agricultural income of the assessee and shall determine the sum payable by him on the basis of such return Assessment.

(2) If the assessing authority has reason to believe that a return made under section 14 is incorrect or incomplete, he shall serve on the person who made the return a notice, requiring him on the date to be specified therein either to attend at the office of the assessing authority or produce or to cause to be produced any evidence in support of the return

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the assessing authority, after examining such evidence as such person may produce and such other evidence as the assessing authority may require on specified points, shall by an order in writing assess the total agricultural income of the assessee and determine the sum payable by him on such assessment

(4) If the principal officer of any company or other person fails to make a return under sub section (1) or (2) of section 14 as the case may be or having made the return fails to comply with all the terms of the notice issued under sub section (2) of this section or to produce any evidence required under sub section (3) the assessing authority shall make the assessment to the best of his judgment

Provided that before making such assessment, the assessing authority may allow the assessee such further time as he thinks fit to make the return or comply with the terms of the notice or to produce the evidence

16. (1) If an assessing authority in the course of any proceedings before him under this Act is satisfied that an assessee has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount he may direct that the assessee shall, in addition to the agricultural income-tax payable by him, pay by way of penalty a sum not exceeding the amount of agricultural income-tax which would have been avoided if the Penalty for concealment of income

*Added by Bhopal Act No XII of 1954. Section 2

agricultural income so returned by the assessee had been accepted as the correct income :

Provided that no such order shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard :

Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(2) If the Revenue Commissioner or Collector makes an order under sub-section (1) he shall forthwith send a copy of the same to the appropriate assessing authority.

Power to assess individual members of certain firms, associations and companies.

17. (1) Where the assessing authority is satisfied that any firm or other association of individuals carrying on business (other than a joint Hindu family, a Muslim Waqf referred to in section 3 of the Muslim Waqf Validating Act, 1913, or a company) is under the control of one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, or if he is Deputy Collector incharge of a sub-division with the previous approval of the Collector of a district concerned pass an order that the sum payable as agricultural income-tax by the firm or association shall not be determined and thereupon the share of each member in the agricultural income of the firm or association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation.—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(2) When the Collector is satisfied that the company is under the control of not more than five of its members and that its agricultural income is allowed to accumulate beyond its reasonable needs existing and contingent, having regard to the maintenance and development of its business without being distributed to the members, or that a reasonable part of its agricultural income, having regard to the said needs, has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total agricultural income and that such accumulation or failure to distribute is for the purpose of preventing the imposition of agricultural income-tax upon any of the members in respect of their shares on the agricultural income so accumulated or not distributed the Collector may pass an order that the sum payable as agricultural income-tax by the company shall not be determined and thereupon the proportionate share of each member in the agricultural income of the company, whether such agricultural income has been distributed to the members or not shall be included in the total agricultural income of such member for the purpose of his assessment thereon :

Provided that this sub section shall not apply to any company which is a subsidiary company or in which the public are substantially interested

Explanation —For the purpose of this sub-section

(*a*) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company, not being a company to which the provisions of this sub section apply, or of two or more companies none of which is a company to which this provision apply ,

(*b*) a company shall be deemed to be a company in which the public are substantially interested if shares of the company not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits, carrying not less than twenty five per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year benificially held by, the public (not including the company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been subject of dealings in any stock exchange in India or are, in fact freely transferable by the holders to other members of the public,

(*c*) unless the contrary is proved a company shall be deemed to be under the control of any person or group of persons where the majority of the voting power or shares is in the hands of such persons or group of such persons or of relatives or nominees of such person or group of such persons ,

(*d*) 'nominee' means a person who may be required to exercise his voting power on the directions of or holds shares directly or indirectly on behalf of another person

(3) (i) Where any member of a firm or association of individuals makes default in the payment of agricultural income-tax on his share of agricultural income which has been included in his total agricultural income under the provisions of sub-section (1), such agricultural income tax may be recovered from the firm or association, as the case may be

(ii) Where the proportionate share of any member of a company in the un-distributed agricultural income of the company has been included in his total agricultural income under the provisions of sub-section (2) the agricultural income-tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or, if the winding up the company has commenced

(*iii*) Where the agricultural income-tax is recoverable from a firm, company or other association under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable and such company, firm or association shall be deemed to be the assessee in respect of such sum, for the purpose of Chapter V.

(4) Where the agricultural income-tax has been paid in respect of an un-distributed agricultural income of a company and such agricultural income is subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total agricultural income of that year.

-s on payable by representative.

18. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge, the agricultural income-tax assessed as payable by such person, or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before the publication of the notice referred to in section 14(1) such publication shall be deemed to apply to his executor, administrator or other legal representative and the assessing authority may proceed to assess the total agricultural income of deceased person as if such executor, administrator or other legal representative were the assessee.

(3) When a person dies before he is served with a notice under sub-section (2) of section 14 or section 15 as the case may be the assessing authority may serve such notice on his executor, administrator or other legal representative and may proceed to assess the total agricultural income of deceased person as if such executor, administrator or other legal representative were the assessee.

(4) Where a person dies without having furnished a return which he has been required to furnish under the provisions of sub-section (2) of section 14 or section 15 or having furnished a return which the assessing authority has reason to believe to be incorrect or incomplete the assessing authority may make an assessment of the total agricultural income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might, under the provisions of sub-section (2) and (3) of section 15, have required from the deceased person.

Notice of demand.

19. When the assessing authority has determined the sum payable by an assessee under section 15 or when an order has been passed under section 16 for the payment of penalty, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying separately the amount of tax and penalty.

Appeal against assessment under this Act

20. (1) Any assessee objecting to the amount or rate at which he is assessed under section 15 or under section 17, or denying his liability to be assessed under this Act or objecting to any order against him under section 16 made by the assessing authority, may appeal to the Revenue Commissioner

(2) Every appeal under this section shall be presented within the prescribed period, but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period, if it is satisfied that the appellant had sufficient cause for not presenting it within the prescribed period

(3) The authority before whom the appeal is pending shall fix a day and place for the hearing of the appeal and may, from time to time adjourn the hearing and make such further inquiry as it thinks fit

(4) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(5) In disposing of an appeal the appellate authority may,

(*a*) in the case of an order of assessment, confirm, reduce enhance or annul the assessment or set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed, and

(*b*) in the case of an order under section 16, confirm, cancel or vary such orders

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of showing cause against such enhancement

Revision by Revenue Commissioner

21. (1) The Revenue Commissioner may, on its own motion, or on application, call for the record of any proceeding under this Act pending before or decided by any authority subordinate to the Revenue Commissioner and after such enquiry as it deems necessary may pass such orders as it thinks fit

Provided that Revenue Commissioner shall not pass any order prejudicial to an assessee without giving him a reasonable opportunity of being heard

(2) Any order passed by the Revenue Commissioner under sub section (1) shall, subject to any reference that may be made to the Judicial Commissioner under section 23, be final.

Communication to assessee

22. The Revenue Commissioner passing any final order under section 20 or section 21 shall communicate such order to the assessee.

23. (1) If in any proceeding other than a proceeding under Chapter VI, a question of law arises, the Revenue Commissioner may either on its own motion or on reference from any assesssing authority, draw up a statement of the case and refer it, with its opinion to the Judicial Commissioner.

(2) Within sixty days of the communication of an order under section 20 or section 21, the assessee may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, apply to the Revenue Commissioner to refer to the Judicial Commissioner any question of law arising out of such order or decision and the Revenue Commissioner shall within sixty days of the receipt of such application draw up a statement of the case and refer it with his opinion to the Judicial Commissioner:

Provided that in computing the period of sixty days from the date on which the assessee was served with the notice of the order under section 20 · the time during which any proceeding under section 21 in respect of the said order were pending shall be excluded :

Provided further that a reference from an order under section 21 shall lie only on a question of law arising out of that order itself :

Provided further that the Revenue Commissioner, in exercise of his power of revision under section 21, may decide the question raised in the application and may thereupon reject the application or may refuse to state the case on the ground that no question of law arises or that it is time barred or is otherwise incompetent.

(3) If the Revenue Commissioner rejects an application or refuses to make a reference it shall communicate such order to the assessee.

(4) If the Revenue Commissioner rejects the application under sub-section (2) or refuses to state the case on such application, the assessee may within three months of the communication of the order under sub-section (3) apply to the Judicial Commissioner and the Judicial Commissioner may, if he is not satisfied about the correctness of the decision of the Revenue Commissioner, require the Revenue Commissioner to state the case and refer it and on receipt of such requisition the Revenue Commissioner shall state and refer the case to the Judicial Commissioner.

(5) If the assessee does not apply to the Judicial Commissioner under sub-section (4) the fee deposited by him under sub-section (2) shall be refunded.

(6) If the Judicial Commissioner is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the question raised thereby the Judicial Commissioner may refer the case back to the Revenue Commissioner to make such additions thereto or alterations therein as the Judicial Commissioner may direct in that behalf.

(7) The Judicial Commissioner upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver his judgment there on containing the grounds on which such decision is founded and shall send to the Revenue Commissioner a copy of such judgment and the Revenue Commissioner shall dispose of the case accordingly or if the case arose on a reference from any assessing authority shall forward a copy of such judgment to such authority who shall dispose of the case in accordance with such judgment

(8) In any reference to the Judicial Commissioner under this section the costs shall be in the discretion of the Judicial Commissioner

(9) Notwithstanding that a reference has been made under this section to the Judicial Commissioner, Proceedings for the assessment and recovery of the agricultural income tax may be continued

Provided that if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as may be prescribed

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24. If for any reason any agricultural income chargeable to agricultural income tax has escaped assessment for any year or has been assessed at too low a rate, the assessing authority may, at any time within one year of the end of that year, serve on the person liable to pay agricultural income tax on such agricultural income, or in the case of a company on the principal officer thereof a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 14 and may upon service of such notice proceed to assess or reassess such income, and the provisions of this Act, shall so far as may be, apply accordingly as if the notice were a notice issued under that sub section Income escaping assessment

25. (1) Any authority which passed an order of assessment Rectification

on the face of record of the assessment appeal or revision as the case may be

Provided that no such rectification shall, if it has the effect of enhancing the assessment, be made unless the assessee has been given reasonable opportunity of being heard

(2) Where any such rectification has the effect of reducing the assessment, the assessing authority shall refund the excess amount to the assessee

(3) An order under sub-section (1) which has the effect of enhancing the assessment, shall be deemed to be an order under section 15, 20 or 21, as the case may be, and the provisions of this Act shall, in so far as they may be applicable, apply to such order.

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26. In the determination of the amount of Agricultural income-tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

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27. (1) The assessing appellate and revisional authority shall, for the purpose of this chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely; V of

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of any document ; and

(*c*) issuing commission for the examination of any witness.

and any such proceeding before such authority under this Chapter shall be deemed to be a "Judicial proceeding" within the meaning of section 193 and 228 and for the purposes of section 196 of the Indian Penal Code. XLV

(2) If any person for the purpose of calculation of his agricultural income mentioned in clause (*a*) of sub-section (1) of section 2, produces before any authority under this Act any rent or revenue roll or other similar papers, showing the amount of rent received by him he shall not be entitled to recover, or to institute a suit to recover, rent or revenue due to him on any tenure or holding included in such return at a rate higher than the rate mentioned in such return as payable for such tenure or holding unless the rent or revenue shown in such return has since the date of return been lawfully enhanced.

(3) Any person who produced a rent or revenue roll referred to in sub-section (2) may, within one year of producing such roll, apply to the assessing authority to make any correction therein and assessing authority may, if he is satisfied that such correction should be made, pass order for correcting such rent or revenue roll.

(4) When the assessing authority passes any order under sub-section (3) he may assess, under section 25, any income escaping assessment by reason of the original incorrectness of any entry corrected.

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28. The assessing authority may for the purpose of this Act:—

(1) require any firm or Hindu undivided family to furnish him a return of the names and addresses of the members of the firm or Karta and the members of the family, as the case may be, and

(2) require any person whom he has reason to believe to be the trustee, guardian or agent to furnish him a return of the names and addresses of the person for or of whom he is trustee, guardian or agent

CHAPTER V

RECOVERY OF TAX AND PENALTY

Tax how payable

29. (1) The amount specified in any notice of demand under section 19 or in any order communicated under section 22 shall be payable in four equal instalments

(2) The first instalment shall be paid within one month of the service of the notice of demand or communication of the order, as the case may be, and each subsequent instalment within two months of the previous instalment

(3) If any instalment is not paid within the time allowed under sub section (2), the assessee shall be in default

assessee shall be treated as not being in default

Penalty for default

30. (1) When an assessee is in default in making a pay-

(2) For the purposes of sub section (1), the Collector may direct the recovery of any sum less than one quarter of the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default so however that the total sum so directed to be recovered shall not exceed one quarter of the amount of the arrears payable

of

is in default the amount assessed as agricultural income-tax as if it were an arrear of land revenue

(2) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the date on which the last instalment fixed under section 29 falls due or after the expiration of one year from the date on which any appeal relating to such sum has been disposed of

Right, title and interests of a member of Hindu undivided family or of other persons on whose behalf property is held to pass to the purchaser when property is sold for realisation of arrears of tax.

32. Notwithstanding anything contained in any other enactment for the time being in force—

(a) where any property of Hindu undivided family is sold under this Act for the realization of any amount due under this Act, the right, title and interest of all members of such family in the property shall pass to the purchaser,

(*b*) where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and he is in default in respect of Government tax, the land so held by him may be attached and sold for the realization of such tax, and on such sale, the right, title and interest of such persons in the said land shall pass to the purchaser.

CHAPTER VI

OFFENCES AND PENALTIES

False verification.

33. If any person makes a statement in a verification mentioned in section 12, or section 20 which is false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code. X

Prosecution at the instance of Collector.

34. (1) A person shall not be proceeded against for an offence under section 33 except at the instance of the Collector.

(2) Before instituting proceedings against any person under sub-section (1) the Collector shall call upon such person to show cause why proceeding should not be instituted against him.

(3) The Collector may compound any such offence.

Disclosure of information by public servant.

35. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act, or in any record of any assessment proceedings, or any proceedings relating to the recovery of a demand prepared for the purposes of this Act shall be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment of either description which may extend to six months, and shall also be liable to fine not exceeding Rs. 1,000 :

Provided that nothing in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of a prosecution under the Indian Penal Code in respect of XL any such statement, return, accounts, documents, evidence, affidavit, deposition or for the purposes of prosecution under this Act, or

(*b*) of any such particulars to any person acting in the execution of this Act when it is necessary to disclose the same to him for the purposes of this Act, or

(*c*) of any such particulars occasioned by the lawful employment under this Act, of any process for the service of any notice or the recovery of any demand, or

(*d*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the
9 Indian Stamp Act, 1899, to impound an insufficiently stamped document, or

(*e*) of any rent or revenue-roll or similar papers produced by an assessee as the basis of his agricultural income or any part of such income

Provided further that no prosecution shall be instituted under this section except with the previous sanction of the Revenue Commissioner

Failure to furnish return or to supply information

36. If any person fails, without reasonable cause of excuse to furnish in due time any of the returns mentioned in section 14 or section 28 he shall be punishable with fine which may extend to five rupees for every day during which the default continues

Bar of suit/ in Civil Courts.

37. No suit shall be brought in any Civil Court to set aside or modify assessment made under this Act, and no [illegible] s shall lie against any [illegible] nything in good faith [illegible] Act

Chapter VII

MISCELLANEOUS

[illegible]

38. In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded

[illegible]

39. Any assessee, who is entitled or required to attend before any income-tax authority in connection with any proceedings under this Act may attend either in person or by any person authorised by him in writing in that behalf

40. (1) A notice of requisition under this Act [illegible] served on the person therein named either by [illegible] were a summons issued by a Court under the [illegible] Procedure, 1908

(2) any such notice or req[illegible] firm or a Hindu undivided fa[illegible] of the firm on the *Karta* [illegible] family and in the case of [illegible] be served on the p[illegible]

notice or requisition so served shall be deemed to be a notice or requisition served on the firm, family, or association of individuals, as the case may be.

Receipts to be given.

41. A receipt shall be given for any money paid or recovered under this Act.

Indemnity.

42. (1) Notwithstanding anything contained in any other law or document for the time being in force, when any assessee has paid tax on any amount payable by him as maintenance or *Guzara* to any other person, which he is, by law, decree of a court, agreement, contract, or other disposition of property, bound to pay to such person from his agricultural income he may deduct such amount of tax from the amount payable to such person.

(2) Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

Power to make rules.

43. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide, subject to conditions, for exemption from agricultural income-tax of income mentioned in sub-section (ii) of clause (b) of sub-section (1) of section 2 ;

(*b*) provide, subject to conditions, for exemption from or reduce the rate of agricultural income-tax payable by a co-operative society;

(*c*) prescribe in the case of any society, trust or other association of individuals an amount higher than Rs. 1,500 on which agricultural income-tax shall not be payable or a higher figure of total agricultural income for determining liability to pay tax under section 4;

(*d*) prescribe, for specified areas, a higher limit for the area of land which may be held by a person exempt from payment of tax under the first proviso to section 4;

(*e*) prescribe the calamities for which, the manner in which and the principles according to which, deductions may be allowed under sub-section (2) of section 6;

(*f*) prescribe the period not being less than 30 days within which returns shall be submitted under sub-sections (1) and (2) of section 14, the form of such returns and the manner in which they shall be verified;

(*g*) prescribe the form of the notice of demand mentioned in section 19;

(*h*) prescribe the manner in which and the period, not being less than 30 days, within which appeal under section 20 shall be filed and the manner in which the memorandum of appeal shall be verified;

(*i*) prescribe the fee mentioned in sub-section (2) of section 23;

(*j*) prescribe the form of the notice of demand mentioned in sub-section (3) of section 25.

(*k*) prescribe the method by which the assessment of

who resides in the Bhopal State and is temporarily absent therefrom,

(*l*) prescribe the manner in which the tax payable by an assessee, who has died after the date of the assessment made on him shall be payable ,

(*m*) prescribe the manner in which the tax assessed on a Hindu undivided family shall be payable on partition of the property of such family,

(*n*) prescribe the circumstances under which and the manner in which refunds of the tax paid under this Act shall be made,

(*o*) prescribe the authority by whom and the place at which assessment shall be made in the case of assessee having agricultural income in the jurisdiction of more than one assessing authority, and

(*p*) provide for any other matter which by this Act may be prescribed.

SCHEDULE

(*See* Section 3)

Rates of Agricultural Income-tax

PART I

(A) In the case of every individual, Hindu undivided family, Muslim waqf, firm and other association of individuals, not being a case to which paragraph (B) of this part applies, the basic rates of agricultural income-tax will be as follows:

	Rates
1. On the first Rs. 1,500/- of total agricultural income . .	Nil.
2. On the next Rs. 3,500/- of total agricultural income . .	One anna in the rupee.
3. On the next Rs. 10,000/- of total agricultural income . .	One and half anna in the rupee.
4. On the next Rs. 10,000/- of total Agricultural income . .	Three annas in the rupee.
5. On the balance of total agricultural income . . .	Four annas in the rupee.

These rates are subject to the conditions.

that—(a) no agricultural income-tax shall be payable on a total agricultural income which does not exceed Rs. 3,000/-, and

(b) the agricultural income-tax shall in no case exceed half the amount by which the total agricultural income exceeds Rs. 3,000/-.

(B) In the case of a company, agricultural income-tax shall be payable on the whole of the agricultural income at the maximum rate of -/4/- in the rupee.

PART II

(A) In the case of every individual, Hindu undivided family, Muslim waqf, firm and other association of persons not being a case to which paragraph (B) or paragraph (C) of this part applies, the basic rates of agricultural super-tax shall be as follows :

	Rates
1. On the first Rs. 25,000/- of total income . . .	Nil.
2. On the next Rs. 10,000/- of total income . . .	One anna in the rupee.
3. On the next Rs. 10,000/- of total income . . .	One & half annas in the rupee.
4. On the next Rs. 10,000/- of total income . . .	Two annas in the rupee.
5. On the next Rs. 10,000/- of total income . . .	Two & half annas in the rupee.
6. On the next Rs. 10,000/- of total income . . .	Three annas in the rupee.
7. On the next Rs. 15,000/- of total income . . .	Three & half annas in the rupee.
8. On the next Rs. 15,000/- of total income . . .	Four annas in the rupee.
9. On the next Rs. 15,000/- of total income. . . .	Four & half annas in the rupee.
10. On the next Rs. 30,000/- of total income . . .	Five annas in the rupee.
11. On the balance of total income	Five & a quarter annas in the rupee.

(B) In the case of an association of persons being a registered co-operative society.

	Rates
On the first Rs. 25,000 of total agricultural income .	Nil.
On the balance of toal agricultural income . . .	One anna in the rupee.

(C) In the case of every company.

On the whole of total agricultural income . . .	One anna in the rupee

THE UNITED PROVINCES AGRICULTURAL IN COME-TAX ACT, 1948

[UNITED PROVINCES ACT III OF 1949]

(Modified and extended to Vindhya Pradesh by Government of India, Ministry of States Notification No 194 J, dated 5-9-51)

An Act to provide for the imposition of a tax on agricultural income

WHEREAS it is expedient to impose a tax on agricultural income in the [1][Vindhya Pradesh]

IT is hereby enacted as follows:

CHAPTER I

PRELIMINARY

rt title, nt and commencement

1. This Act may be called the United Provinces Agricultural Income tax Act, 1948

(1) It extends to the whole of the [1][Vindhya Pradesh]

[2][(2) It shall come into force at once]

initions

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Agricultural income" has the same meaning as is assigned to it in the Indian Income-tax Act, 1922 and which in its adapted form is reproduced below :

"*agricultural income" means*—

any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue [3][Barbast or Den [in the [1][Vindhya Pradesh] or is subject to a local rate or cess assessed and collected by an [4][Officer appointed by the [5]Lieutenant-Governor in the State,]

(b) any income derived from such land by—

(i) agricultural, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

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[1] Substituted for "Uttar Pradesh" by G I, M S N, No 194 J dated 5-9-51.

[2] Substituted for the original *ibid* It came into force *w.e.f.* 29-9-51 the date of publication of G I, M S N, No 194 J, dated 5-9-51

[3] Ins, *ibid*

[4] Substituted for 'Officer... .. of the State Government" *ibid*.

[5] Substituted for the words "Chief Commissioner' by G I, M S " dated 29-2 52.

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (*ii*) ;

(*c*) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land or occupied by the cultivator or the receiver of rent-in-kind of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (*ii*) and (*iii*) of sub-clause (*b*) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connexion with the land, requires as a dwelling house, or as a store-house, or other out-building ;

(2) "agricultural income-tax" means tax payable under this Act and includes super-tax ;

(3) "Additional Commissioner" and "Commissioner" mean persons appointed by the [1][Lieutenant-Governor] to perform the duties of the Additional Commissioner or Commissioner as the case may be under this Act ;

[2]* * * * *

[3][(4) "Tehsildar" and "Deputy Commissioner" shall respectively have the same meaning as in the Rewa State Land Revenue and Tenancy Code, 1935;]

(5) "assessee" means a person by whom agricultural income-tax is payable ;

(6) "Assessing authority" means a person authorized by the [1][Lieutenant-Governor] to assess agricultural income-tax ;

[3][(7) "Board" means the Board of Revenue, Vindhya Pradesh;]

(8) "company" means a company as defined in the Indian Income-tax Act, 1922;

(9) "firm" has the meaning assigned to it in the Indian Partnership Act, 1922;

(10) "Landlord" [3][means a person in whose favour the whole or part of revenue of any specific area of land in a village or of a whole village has been assigned;]

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[1] Substituted for the words "State Government" by G.I., M.S.N., No. 194-J, dated 5-9-51. (The words "State Government" were subs. for the words "Provincial Government" by the Adaptation of Laws Order, 1950.)

[2] Omitted by G.I., M.S.N., No. 194-J, dated 5-9-51.

[3] Substituted for the original, *ibid.*

(11) "person" means an individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for that of another, either as owner, trustee, receiver, manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu family, firm or company but does not include a local authority,

(12) "prescribed" means prescribed by rules made under this Act,

(13) "previous year" means the twelve months ending on the 30th day of June preceding the year for which the assessment is to be made,

(14) "principal officer" used with reference to any company or association means—

(i) the secretary, treasurer, manager or agent of the company or association, or

(ii) any person connected with the company or association upon whom the assessing authority has served notice of his intention of treating him as principal officer thereof,

of 1860 (15) "public servant" has the same meaning as in the Indian Penal Code

(16) "total agricultural income" means the aggregate of the amounts of agricultural income of the different classes specified in section 5 and 6 determined respectively in the manner laid down in the said sections and includes all receipts of the description specified in clauses (a), (b) and (c) of sub section (1) of section 2, and

(17) "year" means the agricultural year [1][commencing on, the 1st day of July and ending on the 30th day of June]

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

3. (1) Agricultural income tax an [illegible] of rate or rates specified in the schedule [illegible] each year [2][beginning with the year end [illegible] 1952] in accordance with, and subject to the provisions of this Act and rules framed under clauses (a), (b) and (c) of sub section (2) of section 44 on the total agricultural income of the previous year of every person.

(2) Where there is included in the total agricultural income of an assessee any income exempted from agricultural income-tax by or under the provisions of this Act, the agricultural income-tax payable by the assessee shall be an amount bearing same proportion to the total amount of the

[1] Substituted for the words "as defined in the United Provinces Tenancy Act, 1939" by G I, M S N, No. 194 J, dated 5-9-51

[2] Ins, ibid

agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted as the unexempted portion of the total agricultural income bears to the total agricultural income.

Limit of taxable income.

4. Agricultural income-tax shall be payable by a person whose total agricultural income of the previous year exceeds Rs. 3,000, or, in the case of any society, trust or other association of individuals, such higher figure as may be prescribed :

Provided that the tax shall not be payable by a person who cultivates not more than 50 acres of land and whose agricultural income under clause (a) of sub-section (1) of section 2 does not exceed Rs. 50 :

Provided further that the [1][Lieutenant-Governor] may, for specified areas, prescribe a higher limit for the area of land which may be cultivated by a person exempted from payment of tax under the first proviso.

[2][Provided further that the Lieutenant-Governor may by order in writing exempt from the payment of the tax for such period as he may think fit such person or persons as have in his opinion brought fallow or nautor land under cultivation.]

Determination of agricultural income.

5. The agricultural income mentioned in clause (a) of sub-section (1) of section (2) shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said clause (a), after making the following deductions :

(*a*) any sums paid in the previous year on account of land revenue, [3][Barbast or Den] rents, local rates and cesses and municipal taxes in respect of the entire land from which agricultural income may be derived ;

(*b*) collection charges on the sum realised in the previous year at the following rate :

On first Rs. 10,000 . . .	12 per cent.
On next Rs. 90,000 . . .	11 per cent.
On any amount above Rs. 1 lakh	10 per cent.

[4](*c*) * * * *

(*d*) any expense incurred in the previous year on the construction or maintenance of any irrigation productive or protective work constructed for

[1] Substituted for the words "Chief Commissioner" by G.I., M.S.N., No. 284, dated 29-2-52. (The words "Chief Commissioner" were subs. by G.I., M.S.N., No. 194-J, dated 5-9-51.)

[2] Ins., *ibid.*

[3] Ins., *ibid.*

[4] Omitted, *ibid.*

the benefit of the land from which such agricultural income is derived,

(e) any interest paid in the previous year on any mortgage or other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived, and

(f) any *malikana* paid by the assessee in respect of the land from which agricultural income is derived

Computation of agricultural income

6 (1) The agricultural income mentioned in sub-clauses (i), (ii) and (iii) of clause (b) of sub section (1) of section 2 shall, at the option of the assessee, be computed in accordance with clause (a) or clause (b) of sub section (2)

Provided that an assessee who has once exercised his option shall not be entitled to vary the method of computation except with the permission of the Board of Revenue

(2) (a) Subject to such deduction in respect of agricultural calamities as may be prescribed, the income shall be deemed to be such multiple, not exceeding 7½ per cent of the rent of the land calculated at the latest sanctioned rent rates applicable to hereditary tenants of similar class of soil, as the Board of Revenue may fix for each district or portion thereof

Provided that the Board of Revenue may direct that the multiple for calculating income from land newly brought under cultivation shall for the specified number of years be such lower figure as may be specified, or

(b) the income shall be the gross proceeds of sale of all the produce of the land subject to the following deductions

(i) any sum paid in the previous year, on account of land revenue, [1][Barbast or Den], local rates and cesses and municipal taxes,

(ii) any rent paid in the previous year, to a landlord in respect of the land from which the agricultural income is derived,

(iii) any sums paid in the previous year in respect of land from which such agricultural income is derived in accordance with the provisions of the Northern India Canal and Drainage Act,

(iv) the expenses incurred in the previous year in raising the crop from which the agricultural income is derived, in making it fit for market and in transporting it to market, including the maintenance or hire of agric...

[1] Ins by G I, M S.N, No 194 J, dated 5-9-51

agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted as the unexempted portion of the total agricultural income bears to the total agricultural income.

Limit of taxable income.

4. Agricultural income-tax shall be payable by a person whose total agricultural income of the previous year exceeds Rs. 3,000, or, in the case of any society, trust or other association of individuals, such higher figure as may be prescribed :

Provided that the tax shall not be payable by a person who cultivates not more than 50 acres of land and whose agricultural income under clause (a) of sub-section (1) of section 2 does not exceed Rs. 50 :

Provided further that the [1][Lieutenant-Governor] may, for specified areas, prescribe a higher limit for the area of land which may be cultivated by a person exempted from payment of tax under the first proviso.

[2][Provided further that the Lieutenant-Governor may by order in writing exempt from the payment of the tax for such period as he may think fit such person or persons as have in his opinion brought fallow or nautor land under cultivation.]

Determination of agricultural income.

5. The agricultural income mentioned in clause (a) of sub-section (1) of section (2) shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said clause (a), after making the following deductions :

(*a*) any sums paid in the previous year on account of land revenue, [3][Barbast or Den] rents, local rates and cesses and municipal taxes in respect of the entire land from which agricultural income may be derived ;

(*b*) collection charges on the sum realised in the previous year at the following rate :

On first Rs. 10,000 . . .	12 per cent.
On next Rs. 90,000 . . .	11 per cent.
On any amount above Rs. 1 lakh	10 per cent.

[4](*c*) * * * *

(*d*) any expense incurred in the previous year on the construction or maintenance of any irrigation productive or protective work constructed for

[1] Substituted for the words "Chief Commissioner" by G.I., M.S.N., No. 284, dated 29-2-52. (The words "Chief Commissioner" were subs. by G.I., M.S.N., No. 194-J, dated 5-9-51.)

[2] Ins., *ibid.*

[3] Ins., *ibid.*

[4] Omitted, *ibid.*

the benefit of the land from which such agricultural income is derived,

(*e*) any interest paid in the previous year on any mortgage or other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived, and

(*f*) any *malikana* paid by the assessee in respect of the land from which agricultural income is derived

Computation of agricultural income

6. (1) The agricultural income mentioned in sub-clauses (i), (ii) and (iii) of clause (b) of sub section (1) of section 2 shall, at the option of the assessee, be computed in accordance with clause (a) or clause (b) of sub section (2)

Provided that an assessee who has once exercised his option shall not be entitled to vary the method of computation except with the permission of the Board of Revenue

(2) (*a*) Subject to such deduction in respect of agricultural calamities as may be prescribed the income shall be deemed to be such multiple, [illegible] of the land [illegible] nt-rates applicable [illegible] class of soil, [illegible] each district or portion thereof

Provided that the Board of Revenue may direct that the multiple for calculating income from land newly brought under cultivation shall for the specified number of years be such lower figure as may be specified, or

(*b*) the income shall be the gross proceeds of sale of all the produce of the land subject to the following deductions

(i) any sum paid in the previous year, on account of land revenue, [1][Barb ust or Den] local rates and cesses and municipal taxes,

(ii) any rent paid in the previous year, to a landlord in respect of the land from which the agricultural income is derived,

(iii) any sums paid in the previous year in respect of land from which such agricultural income is derived in accordance with the [illegible] of the Northern India Canal and [illegible] Act,

(iv) the expenses incurred in the [illegible] in raising the crop from which [illegible] ral income is derived in [illegible] market and in transporting [illegible] cluding the maintenance or hire [illegible]

[1] Ins by G I, M.S N, No. 191 J, dated 5-9-51

implements and cattle required for these purposes;

(v) any expenses incurred in the previous year on the construction or maintenance of any irrigation productive or protective work constructed for the benefit of the land from which the agricultural income is derived;

(vi) any sum paid in the previous year in order to effect the insurance against loss or damage of crops or property from which the agricultural income is derived:

Provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purposes of this Act and shall be liable to agricultural income-tax after deducting the portion thereof, if any, which has been assessed to income-tax under the Indian Income-tax Act, 1922;

(vii) any expenses incurred in the previous year on the maintenance of any capital asset if such maintenance is required for the purpose of deriving the agricultural income;

(viii) the cost incurred in the previous year of replacement or of repairs in respect of any capital asset which was purchased or constructed not earlier than two years before the commencement of this Act, for the benefit of the land from which the agricultural income is derived;

(ix) any interest paid in the previous year on any amount borrowed and actually spent on any capital expenditure incurred not earlier than two years before the commencement of this Act, for the benefit of the land from which the agricultural income is derived;

(x) where the land from which the agricultural income is derived is subject to a mortgage or other capital charge, any interest paid in the previous year in respect of such mortgage or charge;

(xi) any interest paid in the previous year on any secured or unsecured debt incurred for the purpose of acquiring the property from which the agricultural income is derived;

(xii) any interest paid in the previous year in respect of loans taken under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884; and

(xiii) such other deductions as may be prescribed:

Provided always that no deductions shall be made under this clause if it has already been made under section 5.

(3) If the assessing authority is satisfied that the proceeds of sale have not been correctly shown by the assessee or that any portion of the produce has not actually

been sold, he may assess the value of the produce for purposes of clause (b) of sub section (1) of section 2 by determining, to the best of his judgment, the amount of produce and the market value thereof

7. In computing agricultural income mentioned in clause (c) of sub section (1) of section 2, Exclusion of income derived from a house or building in occupation of receiver, etc

(*a*) no income shall be deemed to accrue from a house or building if it is in the actual use and occupation of the receiver of rent or revenue or the cultivator or the receiver of rent in kind as the case may be,

(*b*) any expenses incurred in repairs and maintenance of the building from which the agricultural income is derived shall be deducted from such agricultural income

8. Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes and, in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto shall be exempt from liability to tax under this Act Exclusion of income from trust etc

9. Income derived from a trust referred to in section 3 of the Musalman Waqfs Validating Act, 1913, commonly known as Waqfs alalaulad shall be assessed as income of one individual provided that the part of the income actually spent on public charitable purposes shall be exempt from liability to tax Income from Waqfs

10 Tax on agricultural income of an undivided Hindu family shall be so assessed that the share of income which a coparcener would receive upon partition of the family shall be treated as the separate income of each coparcener and shall be liable to tax as such provided firstly that a father and a son or a son's son however low shall be deemed to be one coparcener for the purposes of this section, and provided secondly that the income derived by a woman from her Stridhan property shall not be included in the agricultural income of the joint Hindu family Assessment of income of undivided Hindu family

11. (1) Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or Assessment to tax on common manager, receiver, etc.

receiver, administrator or the like, and he shall be deemed to be the assesser in respect of the agricultural income tax so payable by each such person and shall be liable to pay the same

(2) In the case of agricultural income taxable under this Act which is received by the Court of Wards, the Administrator General or the Official Trustee, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General or Official Trustee, in the like manner and to the same extent as would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly.

(3) Notwithstanding anything contained in sub-section (1), the appropriate assessing authority may in his discretion assess the tax directly on the person on whose behalf the agricultural income is receivable by such Court of Wards or Administrator General or the Official Trustee.

xemption from assessment of income-tax.

12. Agricultural income-tax shall not be payable by a person on :

(*a*) any sum which he receives as a share-holder out of the agricultural income of a company which has certified that it has paid or will pay the tax under this Act in respect of the agricultural income of such company ;

(*b*) any sum which he receives as his share out of the agricultural income of a firm or association of individuals, if the tax under this Act has been levied on the agricultural income of such firm or association ;

(*c*) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 11 ;

(*d*) any sum paid by such person to effect an insurance on the life of such person or on the life of a wife or husband or dependent son of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or dependent son of such person, as the case may be, provided that the aggregate of any sums exempted under this clause shall not exceed one-sixth of the total agricultural income of the assessee or Rs. 6,000 whichever be the less :

Provided further that nothing contained in this clause shall be deemed to entitle a person who is assessed to income-tax under the Income-tax Act, 1922, to claim any exemption in respect of any sum referred to in this clause if it was exempted under section 15 of the said Act.

Agricultural income accruing in V. P. to persons residing outside V.P.

13. In the case of any person residing outside the [1][Vindhya Pradesh], all agricultural income accruing or arising to such person whether directly or indirectly through or from any land in the [2][State] shall be deemed to be derived within the [2][State] and shall be chargeable to agricultural income-tax in accordance with the provision of this chapter.

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[1] Substituted for the words "Uttar Pradesh" by G.I., M.S.N., No. 194-J, dated 5-9-51.
[2] Substituted for the word "Province" by the Adaptation of Laws Order, 1950.

Chapter III

ASSESSING AUTHORITIES

Assessing authorities

14. (1) For the purposes of this Act, every [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] and [2][Tehsildar, or an Assistant Sales Tax or Assistant Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Tehsildar under this Act] shall be assessing authority and shall exercise and perform within his revenue jurisdiction such powers and duties as may be prescribed, provided that the [3][Lieutenant-Governor] may appoint any officer as an assessing authority for such area as may be prescribed

(2) In particular and without prejudice to the generality of the provisions of sub section (1) the following authorities shall be the assessing authorities in the cases mentioned against each, namely

(*a*) [2][Tehsildar, or an Assistant Sales Tax or Assistant Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Tehsildar under this Act]	Where the gross agricultural income does not exceed Rs. 1 lakh
(*b*) [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act]	In all cases
(*c*) Officer appointed under proviso to sub section (1)	In such cases as may be prescribed

Chapter IV

ASSESSMENT, DEDUCTION AND EXEMPTIONS

Return of income.

15. [1][The Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] shall, on or before the 1st day of November, 1948, or on any such day as may be fixed by the [3][Lieutenant-G

Substituted for the word "Collector", *ibid*

Substituted for the words "Assistant Collector in charge of

of Commissioner" by

hief Commissioner"

N, No. 104-J, dated

give notice, by the publication in the official Gazette and in such other manner as may be prescribed, requiring every person, other than a company, whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax to furnish to such assessing authority and within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total agricultural income during the previous year:

Provided that the assessing authority specified in the notice may in his discretion extend the date for the delivery of the return in the case of any person or class of persons.

(2) The principal officer of every company shall on or before the prescribed date in each year furnish to the [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] a return in the prescribed form and verified in the prescribed manner, showing the total agricultural income of the company during the previous year:

Provided that the [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] may in his discretion extend the date for the delivery of the return in the case of any company or class of companies.

(3) In the case of any person whose total agricultural income is, in the opinion of the assessing authority, such amount as to render such person liable to payment of agricultural income-tax in any year he may serve in that year a notice in the prescribed form requiring such person to furnish within such period not being less than thirty days as may be specified in the notice a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total agricultural income during the previous year:

Provided that the assessing authority may in his discretion extend the date for delivery of the return.

(4) If any person having furnished a return under sub-section (1),(2) or (3) discovers any omission or wrong statement therein, he may furnish a return or a revised return as the case may be, at any time before the assessment is made and any return so made shall be deemed to be made in due time under this section

[1] Substituted for the word "Collector" by G.I., M.S.N., No. 194-J, dated 5-9-51.

16. (1) If the assessing authority is satisfied that a return made under section 15 is correct and complete he shall assess the total agricultural income of the assessee and shall determine the sum payable by him on the basis of such return Assessment.

(2) If the assessing authority has reason to believe that a return made under section 15 is incorrect or incomplete he shall serve on the person who made the return a notice requiring him on the date to be specified therein either to attend at the office of the assessing authority or to produce or to cause to be produced any evidence in support of the return

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be the assessing authority, after seeing such evidence as such person may produce and such other evidence as the assessing authority may require on specified points, shall by an order in writing assess the total agricultural income of the assessee and determine the sum payable by him on such assessment

(4) If the principal officer of any company or other person fails to make a return under sub-section (2) or (3) of section 15 as the case may be, or having made the return fails to comply with all the terms of the notice issued under sub-section (2) of this section or to produce any evidence required under sub section (3), the assessing authority shall make the assessment to the best of his judgment

Provided that before such assessment, the assessing au-

17. (1) If an assessing authority in the course of any proceedings before him under this Act is satisfied that an assessee has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the agricultural income-tax payable by him pay by way of penalty a sum not exceeding the amount of agricultural income-tax which would have been avoided if the agricultural income so returned by the assessee had been accepted as the correct income Penalty for concealment of income

Provided that no such order shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard

Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section

(2) I the Board, Commissioner, Additional Commissioner, or [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by

[1] Substituted for the word "Collector" by G I, M.S N No. 194-J, dated 5-9-51.

the Commissioner to excercise the powers and perform the functions of a Deputy Commissioner under this Act] makes an order under sub-section (1) he shall forthwith send a copy of the same to appropriate assessing authority.

Power to assess individual members of certain firms, associations and companies.

18. (1) Where the assessing authority is satisfied that any firm or other association of individuals carrying on any business (other than a joint Hindu family, a Muslim Waqf referred to in section 3 of the Musalman Waqf Validating Act, 1913, or a company) is under the control of one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, or if he is a [1][Tehsildar, or an Assistant Sales Tax or Assistant Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Tehsildar under this Act] with the previous approval of the [2][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] of the district concerned, pass an order that the sum payable as agricultural income-tax by the firm or association shall not be determined, and thereupon the share of each member in the agricultural income of the firm or association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation.—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(2) Where the [2][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] is satisfied that a company is under the control of not more than five of its members and that its agricultural income is allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business, without being distributed to the members, or that a reasonable part of its agricultural income having regard to the said needs, has no been distributed to its members in such manner as to render the amount distributed liable to be included in their total agricultural income, and that such accumulation or failure to distribute is for the purpose of preventing the imposition of agricultural income-tax upon any of the members in respect of their shares in the agricultural income so accumulated or not distributed, the [2][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] may, with the previous approval of the Commissioner of the area concerned, pass an order that the sum

[1] Substituted for the words "Assistant Collector in charge of a sub-division", *ibid.*

[2] Substituted for the word "Collector" by G.I., M.S.N., No. 194-J, dated 5-9-51.

payable as agricultural income tax by the company shall not be determined, and thereupon the proportionate share of each member in the agricultural income of the company, whether such agricultural income has been distributed to the members or not, shall be included in the total agricultural income of such members for the purpose of his assessment thereon

Provided that this sub section shall not apply to any company which is a subsidiary company or in which the public are substantially interested

Explanation —For the purpose of this sub section

(*a*) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein the control of the company is in the hands of a company not being a company to which the provisions of this sub section apply, or of two or more companies none of which is a company to which those provisions apply ,

(*b*) a company shall be deemed to be a company in which the public are substantially interested if shares of the company not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits carrying not less than twenty five per cent of the voting power have been allotted unconditionally to or acquired unconditionally by, and are at the end of the previous year beneficially held by the public (not including the company to which the provisions of this sub section apply), and if any such shares have in the course of such previous year been in India ie holders

(*c*) unless the contrary is proved a company shall be deemed to be under the control of any person or group of persons where the majority of the voting power or shares is in the hands of such person or group of such persons or of relatives or nominees of such persons or group of such persons,

(*d*) 'nominee' means a person who may be required to exercise his voting power on the directions of, or holds share directly or indirectly on behalf of, another person

(3) The Commissioner shall not give his approval to any order proposed to be passed by the [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] under this section, until he has given the firm association or company concerned an opportunity of being heard

[1] Substituted for the word 'Collector' by G I, M.S V, No. 194 J, dated 5 9-51.

(4) (*i*) Where any member of a firm or association of individuals makes default in the payment of agricultural income-tax on his share of agricultural income which has been included in his total agricultural income under the provisions of sub-section (1), such agricultural income-tax may be recovered from the firm or association, as the case may be.

(*ii*) Where the proportionate share of any member of a company in the undistributed agricultural income of the company has been included in his total agricultural income under the provisions of sub-section (2), the agricultural income-tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are no sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

(*iii*) Where agricultural income-tax is recoverable from a company, firm or other association under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company, firm or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter V.

(5) Where the agricultural income-tax has been paid in respect of an undistributed agricultural income of a company under this section and such agricultural income is subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total agricultural income of that year.

Tax of deceased person payable by representative.

19. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay, out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the agricultural income-tax assessed as payable by such person, or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before the publication of the notice referred to in section 15 (1), such publication shall be deemed to apply to his executor, administrator or other legal representative and the assessing authority may proceed to assess the total agricultural income of the deceased person as if such executor administrator or other legal representative were the assessee.

(3) Where a person dies before he is served with a notice under sub-section (3) of section 15 or section 16, as the case may be, the assessing authority may serve such notice on his executor, administrator or other legal representative and may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(4) Where a person dies, without having furnished a return which he has been required to furnish under the provisions of sub-section (3) of section 15 or section 16 or having furnished a return which the assessing authority

has reason to believe to be incorrect or incomplete, the assessing authority may make an assessment of the total agricultural income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may require from the executor, administrator or other legal representative of the deceased person any accounts documents or other evidence which he might under the provisions of sub sections (2) and (3) of section 16 have required from the deceased person

Notice of demand

20 When the assessing authority has determined the sum payable by an assessee under section 16 or when an order has been passed under section 17 for the payment of penalty, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying separately the amount of tax and penalty

Appeal against assessment under this Act

21. (1) Any assessee objecting to the amount or rate at which he is assessed under section 16 or under section 18 or denying his liability to be assessed under this Act or objecting to any order against him under section 17 made by the assessing authority may appeal to the Commissioner who may either himself decide the appeal or transfer it to the Additional Commissioner

(2) Every appeal under this section shall be presented within the prescribed period but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period if it is satisfied that the appellant had sufficient cause for not presenting it within the prescribed period

(3) The authority before whom the appeal is pending shall fix a day and place for the hearing of the appeal and may, from time to time adjourn the hearing and make such further enquiry as it thinks fit

(4) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner

(5) In disposing of an appeal, the appellate authority may—

(*a*) in the case of an order of assessment, confirm reduce, enhance or annul the assessment or set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed, and

(*b*) in the case of an order under section 17, confirm, cancel or vary such orders

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of showing cause against such enhancement

22. (1) The Board may, on their own motion or on application call for the record of any . . .

this Act pending before or decided by any authority subordinate to the Board and after such enquiry as they deem necessary, may pass such orders as they think fit :

Provided that the Board shall not pass any order prejudicial to an assessee without giving him a reasonable opportunity of being heard.

(2) Any order passed by the Board under sub-section (1) shall, subject to any reference that may be made to the [1][Court of the Judicial Commissioner] under section 24, be final.

Communication to assessee of order passed under section 21 or 22.

23. An authority passing any final order under section 21 or section 22 shall communicate such order to the assessee.

Reference to the [1][Court of the Judicial Commissioner.]

24. *(1) If in any proceeding other than a proceeding* under Chapter VI, a question of law arises, the Board may, either on their own motion or on reference from any assessing authority subordinate to the Board, draw up a statement of the case and refer it, with their opinion, to the [1][Court of the Judicial Commissioner].

(2) Within sixty days of the communication of an order under section 21 or section 22, the assessee may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, apply to the Board to refer to the [1][Court of the Judicial Commissioner] any question of law arising out of such order or decision, and the Board shall, within sixty days of the receipt of such application, draw up a statement of the case and refer it, with their opinion to the [1][Court of the Judicial Commissioner]:

Provided that in computing the period of sixty days from the date on which the assessee was served with the notice of the order under section 21 the time during which any proceedings under section 22 in respect of the said order were pending shall be excluded :

Provided further that a reference from an order under section 22 shall lie only on a question of law arising out of that order itself :

Provided further that the Board, in exercise of their power of revision under section 22, may decide the question raised in the application and may thereupon reject the application or may refuse to state the case on the ground that no question of law arises or that it is time-barred or is otherwise incompetent.

(3) If the Board reject an application or on any other ground refuse to make a reference, they shall communicate such order to the assessee.

1. Substituted for the words "High Court" by G.I., M.S.N., No. 194-J, dated 5-9-51.

(4) If the Board reject the application under sub section (2) or refuse to state the case on such application, the assessee may within three months of the communication of the order under sub-section (3) apply to the [1][Court of the Judicial Commissioner] and the [1][Court of the Judicial Commissioner] may, if it is not satisfied about the correctness of the decision of the Board, require the Board to state the case and refer it and on receipt of such requisition the Board shall state and refer the case to the [1][Court of the Judicial Commissioner]

(5) If the assessee does not apply to the [1][Court of the Judicial Commissioner] under sub section (4), the fee deposited by him under sub section (2) shall be refunded

(6) If the [1][Court of the Judicial Commissioner] is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Board to make such additions thereto or alterations therein as the Court may direct in that behalf

(7) The [1][Court of the Judicial Commissioner] upon the hearing of any such case shall decide the question of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded, *and shall send to the Board a copy of such judgment under* the seal of the Court and the signature of the Registrar, and the Board shall dispose of the case accordingly or if the case arose on a reference from any assessing authority subordinate to the Board, shall forward a copy of such judgment to such authority who shall dispose of the case in accordance with such judgment

(8) In any reference to the [1][Court of the Judicial Commissioner] under this section the costs shall be in the discretion of the Court

(9) Notwithstanding that a reference has been made under this section to the [1][Court of the Judicial Commissioner] proceedings *for the assessment and recovery of the* Agricultural income tax may be continued

Provided that if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as may be prescribed.

(10) Section 5 of the Indian Limitation Act, 1908, shall *apply to the application to the* [1]*[Court of the Judicial Com-*missioner] by an assessee under the provisions of this section

25. If for any reason any agricultural income chargeable to agricultural income tax has escaped assessment for any year or has been assessed at too low a rate, the assessing authority may, at any time within one year of the end of that year, serve on the person liable to pay agricultural income tax on such agricultural income or, in the case of a company on the principal officer thereof, a notice containing Income escaping assessment

all or any of the requirements which may be included in a notice under sub-section (3) of section 15 and may upon service of such notice proceed to assess or re-assess such income and the provisions of this Act shall so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be.

Rectification of mistake.

26. (1) Any authority which passed an order of assessment or an order in appeal or revision may, on his own motion or on an application by the assessee at any time within one year from the date of such order, rectify any mistake apparent on the face of the record of the assessment, appeal or revision as the case may be :

Provided that no such rectification shall, if it has the effect of enhancing the assessment, be made unless the assessee has been given reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the assessing authority shall refund the excess amount to the assessee.

(3) An order under sub-section (1) which has the effect of enhancing the assessment, shall be deemed to be an order under sections 16, 21 or 22, as the case may be, and the provisions of this Act shall, in so far as they may be applicable, apply to such order.

Tax to be collected to the nearest anna.

27. In the determination of the amount of agricultural income-tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take evidence on oath.

28. (1) The assessing, appellate and revisional authorities shall, for the purposes of this chapter have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :

(*a*) enforcing the attendance of any person and examining him on oath or affirmation ;

(*b*) compelling the production of any document; and

(*c*) issuing commission for the examination of any witness, and any such proceeding before such authority under this chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

(2) If any person, for the purpose of calculation of his agricultural income mentioned in clause (a) of sub-section (1) of section 2, produces before any authority under this Act any rent roll or other similar papers, showing the amount of rent received by him, he shall not be entitled to recover,

or to institute a suit to recover, rent due to him on any tenure or holding included in such return at a rate higher than the rate mentioned in such return as payable for such tenure or holding, unless the rent shown in such return has, since the date of the return, been lawfully enhanced

(3) Any person who produced a rent roll referred to in sub-section (2) may, within one year of producing such roll, apply to the assessing authority to make any correction therein, and the assessing authority may, if he is satisfied that such correction should be made, pass order for correcting such rent roll

(4) When the assessing authority passes any order under sub section (3) he may assess under section 26, any income escaping assessment by reason of the original incorrectness of any entry corrected

Power to call for information

29. The assessing authority may, for the purpose of this Act—

(1) require any firm or Hindu undivided family to furnish him a return of the names and addresses of the members of the firm or the *karta* and the members of the family, as the case may be, and

(2) require any person whom he has reason to believe to be the trustee, guardian or agent to furnish him a return of the names and addresses of the persons for or of whom he is trustee or guardian or agent

Chapter V

RECOVERY OF TAX AND PENALTY

Tax how payable

30. (1) The amount specified in any notice of demand under section 20 or in any order communicated under section 23 shall be payable in four equal instalments

(2) The first instalment shall be paid within one month of the service of the notice of demand or communication of the order, as the case may be, and each subsequent instalment within two months of the previous instalment

(3) If any instalment is not paid within the time allowed under sub-section (2), the assessee shall be in default

Provided that when an assessee has presented an appeal under section 21, the appellate authority, on application, may, on such terms and conditions as he may specify direct that the assessee shall be treated as not being in default

31. (1) When an assessee is in default in making [illegible] ment of agricultural income tax, the assessing [illegible] may, in his discretion, direct that, in addition to the [illegible] of the arrears a sum not exceeding one-qu[illegible] amount shall be recovered from the assessee [illegible] penalty.

(2) For the purposes of sub-section (1) the [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] may direct the recovery of any sum less than one-quarter of the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default so however that the total sum so directed to be recovered shall not exceed one-quarter of the amount of the arrears payable.

Recovery of penalties.

32. (1) The [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] may, on the motion of the assessing authority recover any sum imposed by way of penalty under the provisions of section 17 or section 31, or, where an assessee is in default, the amount assessed as agricultural income-tax, as if it were an arrear of land revenue [2][Barbast or Den].

(2) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the date on which the last instalment fixed under section 30 falls due or after the expiration of one year from the date on which any appeal relating to such sum has been disposed of.

Right, title and interest of a member of Hindu undivided family or of other persons on whose behalf property is held, to pass to the purchaser when property is sold for realisation of arrears of tax.

33. Notwithstanding anything contained in any other enactment for the time being in force :

(*a*) Where any property of a Hindu undivided family is sold under this Act for the realisation of any amount due under this Act, the right, title and interest of all members of such family in the property shall pass to the purchaser ;

(*b*) Where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and he is in default in respect of Government tax, the land so held by him may be attached and sold for the realisation of such tax, and on such sale, the right, title and interest of such person in the said land shall pass to the purchaser.

CHAPTER VI

OFFENCES AND PENALTIES

False verification.

34. If any person makes a statement in a verification mentioned in section 15 or section 21 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

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[1]Substituted for the word "Collector" by G.I., M.S.N., No. 194-J, dated 5-9-51.

[2]Ins., *ibid.*

Prosecution at the instance of Deputy Commissioner

ceded against for an ... ance of the [1][Deputy ... or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act]

(2) Before instituting proceedings against any person under sub section (1), the [1][Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] shall call upon such person to show cause why proceedings should not be instituted against him

(3) The [1][Deputy Commissioner or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act] may compound any such offence

Disclosure of information by public servant

36. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act, or in any record of any assessment proceedings, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, *no court* shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof

(2) If a public servant discloses any particulars contained in any such statement, return, accounts documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment of either description which may extend to six months, and shall also be liable to fine not exceeding rupees one thousand

Provided that nothing in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of a prosecution under the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or

(*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act

(*c*) of any such particulars occasioned by the employment, under this Act, of any proc[illegible] service of any notice or the recovery of [illegible] or

[1]Substituted for the word 'Collector' by [illegible]

(*d*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document, or

(*e*) of any rent roll or similar papers produced by any assessee as the basis of his agricultural income or any part of such income :

Provided further, that no prosecution shall be instituted under this section except with the previous sanction of the Board.

Failure to furnish return or to supply information.

37. If any person fails, without reasonable cause or excuse, to furnish in due time any of the returns mentioned in section 15 or section 29, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

Bar of suit in civil courts.

38. No suit shall be brought in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer or the [1][Lieutenant-Governor] for anything in good faith done or intended to be done under this Act.

CHAPTER VII

MISCELLANEOUS

Computation of periods of limitation.

39. In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Appearance by authorised representative.

40. Any assessee, who is entitled or required to attend before any income-tax authority in connexion with any proceeding under this Act, may attend either in person or by any person authorised by him in writing in this behal.

Service of notice.

41. (1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be served on any member of the firm or on the *karta* or any adult male member of the family, and, in the case of any other association of individuals, be served on the principal officer thereof ; and any such notice or requisition so served shall be deemed to be a notice or requisition served on the firm, family, or association of individuals, as the case may be.

Receipts to be given.

42. A receipt shall be given for any money paid or recovered under this Act.

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[1]Substituted for the words "Chief Commissioner" by G.I., M.S.N., No. S. R. O. 284, dated 29-2-52. (The words "Chief Commissioner" were subs. for the words "State Government" by G.I., M.S.N., No. 194-J, dated 5-9-51).

43. (1) Notwithstanding anything contained in any other law or document for the time being in force where any assessee has paid tax on any amount payable by him as maintenance or *guzara* to any other person, which he is, by law, decree of a court, agreement, contract, or other disposition of property, bound to pay to such person from his agricultural income, he may deduct such amount of tax from the amount payable to such person. Indemnity

(2) Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

44. (1) The [1][Lieutenant Governor] may make rules for carrying out the purposes of this Act. Power to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide, subject to conditions for exemption from agricultural income tax of income mentioned in sub clauses (ii) and (iii) of clause (b) of sub-section (1) of section 2;

(*b*) provide, subject to conditions for exemption from or reduce the rate of agricultural income tax payable by a Co-operative Society ;

(*c*) prescribed, in the case of any society trust or other association of individuals, an amount higher than Rs 1,500 on which agricultural income tax shall not be payable or a higher figure of total agricultural income for determining liability to pay tax under section 4;

(*d*) prescribed, for specified areas a higher limit for the area of land which may be cultivated by a person exempt from payment of tax under the first proviso to section 4 ;

(*e*) prescribed the calamities for which the manner in which and the principles according to which, deductions may be allowed under sub section (2) of section 6;

(*f*) prescribe the period not being less than thirty days within which returns shall be submitted under sub sections (1), (2) or (3) of section 15 the form of such returns and the manner in which they shall be verified ;

(*g*) prescribed the form of the notice of demand mentioned in section 20 ;

(*h*) prescribed the manner in which and the period, not being less than thirty days, within which appeal

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[1] Substituted for the words Chief Commissioner by G I, M S N, No. 284, dated 29-2 52 [The words 'Chief Commissioner' were subs by G I, M S N, No. 194], dated 5-9-51]

under section 21 shall be filed and the manner in which the memorandum of appeal shall be verified ;

(*i*) prescribe the fee mentioned in sub-section (2) of section 24 ;

(*j*) prescribe the form of the notice of demand mentioned in sub-section (3) of section 26 ;

(*k*) prescribe the method by which the assessment of agricultural income as determined under section 5 or section 6 shall be made in the case of an assessee who does not reside in the [1][Vindhya Pradesh] or of an assessee who resides in the [1][Vindhya Pradesh] and is temporarily absent therefrom ;

(*l*) prescribe the manner in which the tax payable by an assessee, who has died after the date of the assessment made on him shall be payable ;

(*m*) prescribe the manner in which the tax assessed on a Hindu undivided family shall be payable on partition of the property of such family ;

(*n*) prescribe the circumstances under which and the manner in which refunds of the tax paid under this Act shall be made ;

(o) prescribe the authority by whom and the place at which assessment shall be made in the case of assessee having agricultural income in the jurisdiction of more than one assessing authority ;

(*p*) provide for any other matter which by this Act may be prescribed.

(3) [2]* * * *

[1]Substituted for the words "Uttar Pradesh", by G.I., M.S.N., No. 194-J, dated 5-9-51.
[2]The words "All rules........they are so laid", omitted, *ibid*.

SCHEDULE

(*See* section 3)

Rates of Agricultural Income tax

Part I

(A) In the case of every individual Hindu undivided family, Muslim Wa[illegible] firm and other association of individuals not being a case to which paragraph (B) of this p[illegible] applies, the basic rates of agricultural income-tax will be as follows:

	Rate
1 On the first Rs 1 500 of total agricultural income	Nil
2 On the next Rs 3 500 of total agricultural income	One anna in the rupee
3 On the next Rs 10 000 of total agricultural income	One and a half annas in t[illegible] rupee
4 On the next Rs 10 000 of total agricultural income	Three annas in the rupee
5 On the balance of the agricultural income	Four annas in the rupee

These rates are subject to the conditions that

(a) no agricultural income tax shall be payable on a total agricultural income which does [illegible] exceeds Rs 3 000 and

(b) the agricultural income tax payable shall in no case exceed half the amount by which t[illegible] total agricultural income exceeds Rs 3 000

(B) In the case of a company agricultural income tax shall be payable on the whole of the ag[illegible] cultural income at the maximum rate of four annas in the rupee

Part II

(A) In the case of every individual Hindu undivided family, Muslim Waqf, firm and oth[illegible] association of persons not being a case to which paragraph (B) or paragraph (C) of this part appl[illegible] the basic rates of agricultural super tax shall be as follows

	Rate
1 On the first Rs 25 000 of total income	Nil
2 On the next Rs 10 000 of total income	One anna in the rupee
3 On the next Rs 10 000 of total income	One and a half annas in th[illegible] rupee
4 On the next Rs 10 000 of total income	Two annas in the rupee
5 On the next Rs 10 000 of total income	Two and a half annas in th[illegible] rupee
6 On the next Rs 10 000 of total income	Three annas in the rupee
7 On the next Rs 10 000 of total income	Three and a half annas in the rupee
8 On the next Rs 15 000 of total income	Four annas in the rupee
9 On the next Rs 15 000 of total income	Four and a half annas in the rupee
10 On the next Rs 30 000 of total income	Five annas in the rupee
11 On the balance of total income	Five and a quarter annas in the rupee

(B) In the case of an association of persons being a Co-operative for the time being ·istered under [1][the Vindhya Pradesh Co-operative Societies Ordinance, 1949] :

	Rate
On the first Rs. 25,000 of total agricultural income.	Nil.
On the balance of total agricultural income . . .	One anna in the rupee.

(C) In the case of every company :

On the whole of total agricultural income . . .	One anna in the rupee.

[1]Subs. for the words "the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies" by G.I., M.S.N., No. 194-J, dated 5-9-51.

THE MADRAS AGRICULTURAL INCOME-TAX ACT, 1955

[MADRAS ACT [illegible]]

An Act to provide for the levy of a tax on agricultural income from land in the State of Madras.

WHEREAS it is expedient to provide for the levy of a tax on agricultural income from land in the State of Madras;

BE it enacted in the Sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the [illegible] Agricultural Income-tax Act[illegible], 1955.

(2) It extends to the whole of the State of Madras.

2. In this Act, unless the context otherwise requires,—

(a) "agricultural income" means—

(1) any rent or revenue derived from [illegible][land],

(2) any income derived from such [illegible][land] in the State by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in sub-clause (ii);

These words were substituted for the words "agricultural income from plantations", by section 2 (1) of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

These words were substituted for the words "Madras Plantations [illegible] Income-tax Act" by section 2 (2) ibid.

This word was substituted for the words "a plantation" by [illegible]

This word was substituted for the word "plantation" by [illegible]

(B) In the case of an association of persons being a Co-operative for the time being registered under [1][the Vindhya Pradesh Co-operative Societies Ordinance, 1949] :

	Rate
On the first Rs. 25,000 of total agricultural income.	Nil.
On the balance of total agricultural income . . .	One anna in the rupee.

(C) In the case of every company :

On the whole of total agricultural income . . .	One anna in the rupee.

[1]Subs. for the words "the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies" by G.I., M.S.N., No. 104-I, dated 5-9-51.

THE MADRAS AGRICULTURAL INCOME-TAX ACT, 1955

[MADRAS ACT V OF 1955]

An Act to provide for the levy of a tax on [1][agricultural income from land] in the State of Madras

WHEREAS it is expedient to provide for the levy of a tax on [1][agricultural income from land] in the State of Madras,

BE it enacted in the Sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the [2][Madras Agricultural Income-tax Act], 1955. — Short title and extent.

(2) It extends to the whole of the State of Madras.

2. In this Act, unless the context otherwise requires,— — Definitions.

(a) "agricultural income" means—

(1) any rent or revenue derived from [3][land];

(2) any income derived from such [4][land] in the State by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in sub-clause (ii);

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[1] These words were substituted for the words "agricultural income from plantation by section 2 (1) of the Madras Plantations Agricultural Income-tax (Amendment) A 1958 (Madras Act XXIX of 1958).

[2] These words were substituted for the words "Madras Plantations Agricultural In come-tax Act" by section 2 (2) ibid.

[3] This word was substituted for the words "a plantation" by section 3(1)(i) ibid.

[4] This word was substituted for the word "plantation" by section 3(1) (ii) ibid.

[1][Explanation.—Agricultural income derived from such land by the cultivtaion of any corp means that portion of the income derived from the cultivation, manufacture and sale of the produce of that crop as is defined to be agricultural income for the purposes of the enactments relating to Indian income-tax and if it has not been so defined, the whole of the income;]

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such [2][land] or occupied by the cultivator or the receiver of rent-in-kind of any [2][land] with respect to which or the produce of which any operation mentioned in sub-clauses (ii) and (iii) of clause (2) is carried on :

Provided that the building is on or in the immediate vicinity of the [2][land] and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind, by reason of his connexion with the [2][land], requires as a dwelling-house of as a store-house or other out-building;

(*b*) "agricultural income-tax" means the tax payable under this Act;

(*c*) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under section 14;

(*d*) "Aliyasantana family or branch" means a family or branch governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949);

(*e*) "assessee" means a person by whom agricultural income-tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his agricultural income or of the loss sustained by him or of the amount of refund due to him;

(*f*) "Assistant Commissioner" means the person appointed as Assistant Commissioner of Agricultural Income-tax under section 14;

(*g*) "Collector" means the Collector or other officer in charge of a district;

(*h*) "Commissioner" means the person appointed to be the Commissioner of Agricultural Income-tax under section 14;

(*i*) "Company" means a company as defined [3][in the Companies Act, 1956 (Central Act I of 1956)] or formed in pursuance of an Act of Parliament of the

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[1]This explanation was substituted for the original explanations I and II by section 3 (1) (iii) of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

[2]This word was substituted for the word "plantation" by section 3(1) (ii) *ibid*.

[3]This expression was substituted for the expression "in the Indian Companies Act, 1913 (Central Act VII of 1913)", by section 3 (2) of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

United Kingdom or of Royal Charter or Letters Patent or by an Act of the Legislature of a British possession and includes any foreign association, whether, incorporated or not, which the Government may, by general or special order, declare to be a company for the purposes of this Act,

[1][(*j*) "exempted extent of land" means twelve and a half standard acres,]

(*k*) "financial year" means the year beginning on the 1st April and ending on the 31st March next following,

(*l*) "firm", "partner" and "partnership" have the same meanings respectively as in the Indian Partnership Act, 1932 (Central Act IX of 1932), but the expression "partner" shall also include any person who being a minor has been admitted to the benefits of partnership,

[2][(*ll*) "garden land" means dry land irrigated from an artesian or other well or irrigated by lifting water from any other irrigation source,]

(*m*) "Government" means the State Government,

(*n*) "Hindu undivided family" includes a family governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933);

[3][(*nn*) "to hold" with its grammatical variations and cognate expressions means to possess and enjoy either as owner or tenant or mortgagee in possession or as a maintenance holder or in one or more of those capacities,

(*nnn*) "land" means agricultural land, that is to say, land which is used for agricultural purposes or purposes subservient thereto and is either assessed to land revenue in the State or is subject to a local rate assessed and collected by officers of the Government as such and includes horticultural land, forest land, garden land and plantations but does not include house-site, or land used exclusively for pasture,]

(*o*) "landlord" means any individual who receives rent for [4][land] either in cash or kind from a tenant;

(*p*) "Marumakkattayam tarwad or tavazhi" means a

(Madras Act XVII of 1939), and in the case of a tavazhi possessing separate properties the provisions of this Act shall apply as if the tavazhi were a tarwad;

[1]This clause was substituted for the original clause by section 3 (3), *ibid*.

[2]This clause was inserted by section 3(4), *ibid*

[3]These clauses were inserted by section 3(5), *ibid*

[4]This word was substituted for the word "plantation" by section 3 ...

(*q*) "person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognized by law, and includes an undivided Hindu Mitakshara family, an Aliyasanthana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties, or a Nambudiri or other family to which the rule of impartibility applies, a firm or a company, an association of individuals, whether incorporated or not, and any institution capable of holding property;

(*r*) "plantation" means any land used for growing all or any of the following, namely [1][arecanut, tea], coffee, rubber, cinchona or cardamom;

(*s*) "prescribed" means prescribed by rules made under this Act;

(*t*) "previous year" means—

(*i*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of any year ending on any date other than the said 31st day of March, then, at the option of the assessee, the year ending on the day to which his accounts have so been made up :

Provided that, if the option has once been exercised by an assessee he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Agricultural Income-tax Officer and upon such conditions as he may think fit; or

(*ii*) such period as may be determined by the Commissioner in the particular case of any person or class of persons;

(*u*) "Principal officer" used with reference to any company or association means—

(*i*) the Secretary, Treasurer, Manager or Agent of the company or association, or

(*ii*) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof;

(*v*) "registered firm" means a firm registered under the provisions of section 27;

[1]These words were substituted for the word "tea" by section 3(7) of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXI of 1958).

[1][(vv) "standard acre" means—

(i) one acre of wet land assessed to land revenue at the rate of Rs 8 and above per acre, or

(ii) one third of an acre of land used for growing arecanut, or

(iii) three-fifths of an acre of land used for growing tea, or

(iv) one and one-fifth acres of land used for growing coffee, rubber, cinchona or cardamom, or

(v) one and three-fifths acre of—

(a) wet land assessed to land revenue at the rate of Rs 4 and above but below Rs 8 per acre, or

(b) garden land irrigated from a Government source of irrigation, or

(vi) two acres of—

(a) wet land assessed to land revenue at a rate below Rs 4 per acre, or

(b) garden land irrigated from a well or a source of irrigation other than a Government source of irrigation, or

(c) tope, or

(vii) three acres of dry land which is not irrigated and which is assessed to land revenue at the rate of Rs 1 50 nP and above per acre, or

(viii) four acres of dry land which is not irrigated and which is assessed to land revenue at any rate below Rs 1 50 nP per acre

Explanation I—One acre of dry land irrigated from a first class source of irrigation shall be deemed to be equivalent to one acre of wet land assessed to land revenue at the rate of Rs 8 and above per acre One acre of dry land which is irrigated from any source of irrigation other than a first-class source of irrigation shall be deemed to be equivalent to one acre of wet land assessed to land revenue at the rate of Rs 4 and above but below Rs 8 per acre

Provided that the Government may, in respect of any particular area, by order direct that one acre of dry land irrigated from any source of irrigation shall, during any specified period, be deemed to be equivalent to any specified extent of any of the categories of land specified in clause (vv) of section 2 on the ground of inferiority of soil or on any other ground

Explanation II—Where the land held by a person consists of more than one kind of the lands specified above, all t'

[1]. This clause was inserted by section 3 (8) of the M Income-tax (Amendment) Act, 1958 (Madras Act '

lands held by him shall, for the purposes of this Act, be reduced to standard acres calculated according to the proportions specified above.]

(*w*) "State" means the State of Madras;

(*x*) "total agricultural income" means the aggregate of all agricultural income mentioned in section 4 computed in accordance with the provisions of section 5 and includes all income of the description specified in section 9 and all the receipts of the description [1][specified in sub-section (2) of section 10;]

[2][(*y*) "tope" means any land containing large groups of fruit trees or valuable timber trees, whether growing spontaneously or grown artificially and includes orchards.]

Definition of added territory.

[3]["2-A. In this Act, unless the context otherwise requires, added territory means the territory transferred to the State of Madras by the Andhra Pradesh and Madras (Alternation of Boundaries) Act, 1959 (Central Act 56 of 1959")].

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of agricultural income-tax.

3. (1) Agricultural income-tax at the rate or rates specified in Part I of the Schedule to this Act shall be charged for each financial year commencing from the 1st April, 1955 in accordance with and subject to the provisions of this Act, on the total agricultural income of the previous year of every person :

[4][Provided that the agricultural income or any part of it derived from land other than any land used for growing tea, coffee, rubber, cinchona or cardamom shall be subject to assessment of agricultural income-tax only from the financial year commencing from the 1st April, 1958.]:

[5][Provided further that the agricultural income or any part of it derived from land in the added territory shall be subject to assessment of agricultu... c tax only from the financial year commencing ... April, 1961.]

(2) Where there is inclu... tal agric income of an assessee any inc... rom a tural income-tax by or unde... of thi the agricultural income-tax p... ssessee

1. This expres... tituted for the ex... sect... tion 3(9) of the ... ns Agricultur... end... 958 (Madras Ac...

2. This clause ... ion 3(10), ...

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4. This proviso ... 4 of A

5. Added by Ma...

be an amount bearing to the total amount of the agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted, the same proportion as the unexempted portion of the total agricultural income bears to the total agricultural income

(3) In the case of persons holding property as tenants-in-common and deriving agricultural income, the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in-common.

Total agricultural income

4. Subject to the provisions of this Act, the total agricultural income of any previous year of any person comprises all agricultural income derived from [1][land] situated within the State [2][which is received by him or which accrues to him] within or without the State, but does not include—

(*a*) any agricultural income derived from [1][land] situated without the State,

(*b*) any agricultural income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied thereto,

[3][(*c*) any agricultural income derived from property held by any co-operative society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932.]

Madras Act VI of 1932

Explanation—In this section, "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility

Computation of agricultural income

5. The agricultural income of a person shall be computed after making the following deductions, namely —

(*a*) Any sums paid in the previous year on account of land revenue due to the Government, local rates and cesses and municipal taxes in respect of [4][land],

(*b*) any rent paid in the previous year to the landlord or superior landlord, as the case may be, in respect of the [5][land] from which the agricultural income is derived,

(*c*) any expenses incurred in the previous year on the maintenance of any protective work constructed for the benefit of the [6][land] from which the agricultural income is derived,

[1] This word was substituted for the words "a plantation" by section 5 (i) of the Plantations Agricultural Income-tax (Amendment) Act, 195[3] (Madr of 1958)

[2] These words were substituted for the words "and received by [illegible] (ii), *ibid*

[3] This clause was inserted by section 5 (iii), *ibid*

[4] *This word was substituted for the word* "plantations" *by section*

[5] This word was substituted for the word "plantation" by *ibid*

Explanation.—"Maintenance" includes current repairs and includes also, in the case of protective dykes and embankments, all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes;

(*d*) any expenses incurred in the previous year on maintenance and repairs in respect of any capital asset which was purchased or constructed for the benefit of the [1][land] from which the agricultural income is derived;

(*e*) any expenditure incurred in the previousyear not being in the nature of capital expenditure or personal expenses of the assessee laid out or expended wholly and exclusively for the purpose of the [1][land];

(*f*) in respect of depreciation of buildings, machinery, plant and furniture which are the property of the assessee and are required for the purpose of deriving the agricultural income, a sum equivalent to such percentage on the written down value thereof as may in any case or class of cases be prescribed, and where the buildings have been newly erected or the machinery or plant newly installed, a further sum subject to such conditions as may be prescribed :

Provided that the prescribed particulars have been duly furnished :

Provided further that the aggregate of all such allowances made under this Act shall in no case exceed the original cost to the assessee of the buildings, machinery, plant or furniture, as the case may be;

Explanation.—In this clause "buildings" include all structures constructed with a view to provide amenities to workers [as defined in the Plantations Labour Act, 1951], employed on the plantations; Central Act LXIX of 1951.

(*g*) expenses other than capital expenditure incurred in the previous year of cultivating the crop from which the agricultural income is derived and of transporting such crop to market, including the maintenance of agricultral implements and cattle required for such cultivation and transport or both :

Provided that in any particular year the total replanting expenditure shall not exceed the amount necessary for replanting 2½ per cent of the acreage if the crop is rubber or coffee, 1-2/3 per cent [2][if the crop is arecanut or tea] and 8-1/3 per cent if the crop is cardamom, and 10 per cent if the crop is cinchona:

[3][Provided further that if the re-planting expenditure allowance under this section is not incurred in one year, the

1. This word was substituted for the word "plantation" by section 6(i) of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

2. These words were substituted for the words "if the crop is tea" by section 6 (ii), *ibid.*

3. This proviso was inserted by section 6(iii), *ibid.*

allowance for the year or years may be carried forward for a period of three years in the case of arecanut, tea, rubber and coffee and one year in the case of cinchona and cardamom beyond the assessment year,]

(*h*) any tax, cess or rate paid on the cultivation or sale of the crop from which such agricultural income is derived,

(*i*) cost incurred in the previous year in the purchase or replacement of cattle or implements, which are necessary for cultivation, to such extent as may be prescribed, less the amount realized by sale of the cattle or implements replaced or their estimated value,

(*j*) any sum paid in the previous year in order to effect an insurance against loss or damage of crops or property from which the agricultural income is derived

Provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purposes of this Act, and shall be liable to agricultural income tax after deducting the portion thereof, if any, which has been assessed to income tax under the Indian Income-tax Act, 1922

Central Act XI of 1922

(*k*) any interest paid in the previous year on any amount borrowed and actually spent on the [1][land] from which the agricultural income is derived

Provided that the need for borrowing was genuine having due regard to the assets of the assessee at the time

Provided further that the interest allowed under this clause shall be limited to [2][nine per cent] on an amount equivalent to twenty five per cent of the agricultural income from the [1][land] in that year,

Central Act LXIX of 1951

(*l*) any sum paid to a worker as defined in the Plantations Labour Act, 1951 as bonus for services rendered where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus

Provided that the bonus is of a reasonable amount with reference to—

(i) the wages and conditions of service of such worker,

(ii) the income from the [1][land] in the year in question, and

(iii) the general practice in [3][land]

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[1] This word was substituted for the word 'plantation by section 6(i), of the Madras Plantations Agricultural Income tax (Amendment) Act, 1958 (Madras Act XXIX of 1958)

[2] These words were substituted for the words 'six per cent" by section 6 (iv), ibid.

[3] This word was substituted for the word 'plantations' by ibid

Provided that no deduction shall be made under this section if it has already been made in the assessment under the Indian Income-tax Act, 1922 (Central Act XI of 1922), or is allowable in assessing a person to tax under that Act;

[1]["(*m*)" subject to such restrictions and conditions as may be prescribed, any expenditure not being in the nature of capital expenditure laid out or expended on scientific research relating to agriculture from which agricultural income is derived;

(*n*) subject to such restrictions and conditions as may be prescribed, any sum paid to a scientific research association having as its object the undertaking of scientific research relating to agriculture and any sum paid to University, college or other institution to be used for such scientific research :

Provided that such association, University, college or institution is, for the time being, approved for the purpose of this clause by the Government;

(*o*) subject to such restrictions and conditions as may be prescribed, any contribution made in the previous year in connection with Community Development, National Extension Service or Local Development Works or any charitable purpose recognised by the Government.]

Explanation.—For the purpose of this section, "paid" means actually paid or incurred according to the method of accounting upon the basis of which agricultural income is computed under this section; "plant" includes vehicles and scientific apparatus purchased for the purpose of deriving the agricultural income; and "written down value" means—

(*i*) in the case of assets acquired in the previous year, the actual cost to the assessee; and

(*ii*) in the case of assets acquired before the previous year, the actual cost to the assessee less such sum as may be prescribed.

Assessment of income derived from [2][land] partly within the State and partly without.

6. Where agricultural income is derived from [2][land] situated partly within the State and partly without the State, agricultural income-tax shall be levied under this Act—

(*i*) where the portion of such income attributable to the [2][land] situated within the State can be determined from the accounts maintained by the assessee, on the portion so determined.

(*ii*) where the portion of the income so attributable cannot be determined by the method specified. in clause (i), on such portion as may be determined in the prescribed manner.

1. These clauses were inserted by section 6 (v) of Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

2. This word was substituted for the word "plantations" by section 7, *ibid.*

[1]['6-A (1) Every person who holds land in excess of the exempted extent at any time may get the crops cultivated by him or his tenant registered under this Act, and for that purpose, shall submit an application for registration to the Agricultural Income tax Officer, within such period and accompanied by such fee not exceeding three rupees, as may be prescribed — Registration

(2) The application shall contain particulars of cultivation of each of such crops by such person, or his tenant and such other particulars as may be prescribed]

7. Agricultural income shall be computed for the purpose [2][of this Act] in accordance with the method of accounting regularly employed by the assessee — Method of accounting

Provided that, if no method of accounting has been regularly employed by the assessee, or if the method employed is such that, in the opinion of the Agricultural Income tax Officer, the agricultural income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as may be prescribed

8 (1) (*a*) In the case of agricultural income taxable under this Act which the Court of Wards Administrator General or Official Trustee or any receiver, administrator executor, trustee, guardian or manager appointed by or under any law or by an order of court or by written agreement is entitled to receive on behalf of any person the tax shall be levied upon and recoverable from the Court of Wards Administrator General, Official Trustee or from such receiver administrator, executor, trustee guardian or manager, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the person on whose behalf such agricultural income is receivable and all the provisions of this Act shall apply accordingly — Liability of Court of Wards, Administrator-General, etc

(*b*) Where the agricultural income received on behalf of any person by the Court of Wards, Administrator General, Official Trustee, receiver, administrator, executor, trustee, guardian or manager referred to in clause (*a*) is part only of the total agricultural income of such person, the agricultural income tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax so assessed shall be levied upon and recoverable from the Court of Wards, Administrator General, Official Trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and from such person rateably according to the portion of the total agricultural income of such person received by the Court of Wards, Administrator General, Official Trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and the portion received by such person

[1] This section was inserted by section 8 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958)

[2] These words were substituted for the expression ' of sections 5 and 6 ' by section 9, *ibid.*

Provided that no deduction shall be made under this section if it has already been made in the assessment under the Indian Income-tax Act, 1922 (Central Act XI of 1922), or is allowable in assessing a person to tax under that Act;

[1]["(*m*)" subject to such restrictions and conditions as may be prescribed, any expenditure not being in the nature of capital expenditure laid out or expended on scientific research relating to agriculture from which agricultural income is derived;

(*n*) subject to such restrictions and conditions as may be prescribed, any sum paid to a scientific research association having as its object the undertaking of scientific research relating to agriculture and any sum paid to University, college or other institution to be used for such scientific research :

Provided that such association, University, college or institution is, for the time being, approved for the purpose of this clause by the Government;

(*o*) subject to such restrictions and conditions as may be prescribed, any contribution made in the previous year in connection with Community Development, National Extension Service or Local Development Works or any charitable purpose recognised by the Government.]

Explanation.—For the purpose of this section, "paid" means actually paid or incurred according to the method of accounting upon the basis of which agricultural income is computed under this section; "plant" includes vehicles and scientific apparatus purchased for the purpose of deriving the agricultural income; and "written down value" means—

(*i*) in the case of assets acquired in the previous year, the actual cost to the assessee; and

(*ii*) in the case of assets acquired before the previous year, the actual cost to the assessee less such sum as may be prescribed.

Assessment of income derived from [2][land] partly within the State and partly without.

6. Where agricultural income is derived from [2][land] situated partly within the State and partly without the State, agricultural income-tax shall be levied under this Act—

(*i*) where the portion of such income attributable to the [2][land] situated within the State can be determined from the accounts maintained by the assessee, on the portion so determined.

(*ii*) where the portion of the income so attributable cannot be determined by the method specified. in clause (i), on such portion as may be determined in the prescribed manner.

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1. These clauses were inserted by section 6 (v) of Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

2. This word was substituted for the word "plantations" by section 7, *ibid.*

[1]["6-A. (1) Every person who holds land in excess of the exempted extent at any time may get the crops cultivated by him or his tenant registered under this Act, and for that purpose, shall submit an application for registration to the Agricultural Income-tax Officer, within such period and accompanied by such fee not exceeding three rupees, as may be prescribed

Registration

(2) The application shall contain particulars of cultivation of each of such crops by such person, or his tenant and such other particulars as may be prescribed]

7. Agricultural income shall be computed for the purpose [2][of this Act] in accordance with the method of accounting regularly employed by the assessee

Method of accounting

Provided that, if no method of accounting has been regularly employed by the assessee, or if the method employed is such that, in the opinion of the Agricultural Income tax Officer, [illegible] be deduced therefro[illegible] upon such basis and in such man[illegible]

8 (1) (*a*) In the case of agricultural income taxable under this Act which the Court of Wards, Administrator-General or Official Trustee or any receiver, administrator, executor, trustee, guardian or manager appointed by or under any law or by an order of court or by written agreement is entitled to receive on behalf of any person, the tax shall be levied upon and recoverable from the Court of Wards, Administrator General, Official Trustee or from such receiver, administrator, executor, trustee, guardian or manager, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the person on whose behalf such agricultural income is receivable, and all the provisions of this Act shall apply accordingly

Liability of Court of Wards, Administrator-General, etc

(*b*) Where the agricultural income received on behalf of any person by the Court of Wards, Administrator General, Official Trustee, receiver, administrator, executor, trustee, guardian or manager referred to in clause (*a*) is part only of the total agricultural income of such person, the agricultural income tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax so assessed shall be levied upon and recoverable from the Court of Wards, [illegible] ceiver, administr[illegible] as the case may b[illegible] to the portion of the total agricultural income of such person received by the Court of Wards, Administrator-General, Official Trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and the portion received by such person.

1. This section was inserted by section 8 of the Madras Plantations Agricultural Income tax (Amendment) Act, 1958 Madras Act XXIX of 1958)

2. These words were substituted for the expression "of sections 5 and 6" by section 9 [illegible]

(*c*) Nothing contained in this sub-section shall prevent either the direct assessment of the person on whose behalf the agricultural income is receivable or the recovery from such person of the tax payable in respect of such income.

(2) (*a*) Save as provided in sub-section (1), if a person holds [1][land] from which agricultural income is derived partly for his own benefit and partly for the benefit of others or wholly for the benefit of others, agricultural income-tax shall be assessed on the total agricultural income derived from such [1][land] at the rate which would be applicable if such person had held the [1][land] exclusively for his own benefit.

(*b*) Any person holding such [1][land] shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive, to deduct the amount of agricultural income-tax at the rate at which such income is or will be assessed under clause (*a*).

Explanation.—In this section "beneficiary" means a person entitled to the whole or any portion of the income derived from the [1][land].

Income from settlement, disposition, etc.

9. (1) In computing the total agricultural income of an assessee, all agricultural income arising to any person by virtue of a settlement or disposition, whether revocable or not, and whether effected before or after the commencement of this Act, from assets remaining the property of the settlor or disponer shall be deemed to be the agricultural income of the settlor or disponer, and all agricultural income arising to any person by virtue of a revocable transfer of assets shall be deemed to be the agricultural income of the transferor :

Provided that, for the purposes of this sub-section, a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the re-transfer directly or indirectly of the agricultural income or assets to the settlor, disponer or transferor or in any way gives the settlor, disponer or transferor a right to re-assume power directly or indirectly over the agricultural income or assets:

Provided further that the expression "settlement or disposition" shall, for the purposes of this sub-section, include any disposition, trust, covenant, agreement or arrangement and the expression "settlor or disponer" in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made :

Provided also that this sub-section shall not apply to any agricultural income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which agricultural income the settlor or disponer derives

1. This word was substituted for the word "plantations" by section 10 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

2. This word was substituted for the word "plantation" by *ibid.*

no direct or indirect benefit but that the settlor shall be liable to be assessed on the said agricultural income as and when the power to revoke arises to him

(2) In computing the total agricultural income of any individual for the purpose of assessment, there shall be included—

(*a*) so much of the agricultural income of a wife or minor child of such individual as arises directly or indirectly—

(i) from the membership of the wife in a firm of which her husband is a partner ,

(ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner ,

(iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart , or

(iv) from assets transferred directly or indirectly to the minor child not being a married daughter by such individual otherwise than for adequate consideration , and

(*b*) so much of the agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both

10. [1]["(1) Nothing contained in this Act shall apply to a person who holds land not exceeding twelve and a half standard acres

Exemption from assessment of income-tax.

Provided that no person who held or holds land during any part of a financial year in excess of the exempted extent shall be entitled to the exemption under this sub section even though the extent of land held by him during the rest of that financial year may not be in excess of the exempted extent "]

[2][(2)] Agricultural income-tax shall not be payable on that part of the total agricultural income of a person which is—

(*a*) any sum which he receives out of the agricultural income of a Hindu undivided family, an Aliyasanthana family or branch or a Marumakkattayam tarwad or tavazhi, if he receives such sum as a member of the family or tarwad or tavazhi and tax under this Act has been levied on the agricultural income,

[3]["(*b*) Any sum paid by such person to effect an insurance on the life of such person or on the life of a wife or husband or dependent son of such person or in respect of a contract for a deferred annuity on the life of such person or on the

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1. This sub-section was inserted by section 11 (1) of the Madras Plantations Agricultural Income tax (Amendment) Act, 1958 (Madras Act, XXIX of 1958)

2. The original section 10 was renumbered as sub-section (2) of section 10 by *ibid.*

3. This clause was substituted for the original clause by section 11 (2) of the Madras Plantations Agricultural Income tax (Amendment) Act, 1958 (Madras Act XXIX of 1958)

life of a wife or husband or dependent son of such person, as the case may be, provided that the aggregate of any sums exempted under this clause shall not exceed one-sixth of the total agricultural income of the assessee or six thousand rupees whichever is less :

Provided that nothing contained in this clause shall be deemed to entitle a person who is assessed to income-tax under the Indian Income-tax Act, 1922, to claim any exemption in respect of any sum referred to in this clause if it was exempted under section 15 of the said Act.] Central Act XI of 1922.

(*c*) Any sum which he receives as his share out of the agricultural income of a firm or association of persons, if the tax under this Act has been levied on the agricultural income of such firm or association ;

(*d*) Any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 9.

Non-residents. **11.** (1) A person who is residing outside the State and who is in receipt of agricultural income from [1][land] in the State shall be liable to pay tax on such income; if the non-resident person has an agent in the State, such person and the agent shall be jointly and severally liable for the tax. The assessment may be made either in the name of the non-resident person or his agent or both; and where the assessment is made in the name of the agent, such agent shall be deemed to be, for the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person residing out of the State or through whom the non-resident person is in receipt of any agricultural income, upon whom the Agricultural Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for the purposes of this Act, be deemed to be such agent :

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Agricultural Income-tax Officer as to his liability.

(3) Where a notice under this Act has to be served on a non-resident person it shall be served in the prescribed manner.

Carrying forward of loss. **12.** Where any person sustains a loss [2][within the State] in agricultural income in any year, the loss shall be carried forward to the following year and set off against the agricultural income for that year and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year and so on: but no loss shall be carried forward for more than six years ;

[1] This word was substituted for the words "a plantation" by section 12, *ibid.*

[2] These words were inserted by section 13 (i) of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

Provided that, in the case of loss sustained before the commencement of this Act this section shall apply only to such loss as was sustained in the previous year immediately before such commencement

[1][Provided further that in the case of loss sustained from land other than any land used for growing tea, coffee, rubber, cinchona or cardamom before the 1st April 1958, this section shall apply only to such loss as was sustained in the previous year immediately before that date]

[2][ ]

[3][Provided also that in the case of loss sustained from land in the added territory before the 1st April 1961, this section shall apply only to such loss as was sustained in the previous year immediately before that date]

CHAPTER III

INCOME TAX AUTHORITIES

14 (1) There shall be the following classes of income tax authorities for the purposes of this Act, namely — Income-tax authorities

(*a*) The Board of Revenue ,

(*b*) The Commissioner of Agricultural Income tax ,

(*c*) Assistant Commissioners of Agricultural Income tax,

(*d*) Agricultural Income tax Officers

(2) (*a*) The authorities specified in clauses (*b*) to (*d*) of sub section (1) shall be appointed by the Government

(*b*) The authorities specified in sub section (1) shall exercise and perform in such areas, such powers and duties as the Government may, by notification in the *Fort St George Gazettee*, determine

(3) The Government may, by notification in the *Fort St George Gazette* empower any other officers than the authorities specified in sub section (1) to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as may be specified in the notification

a Act of 1860

servants with [illegible]

Code

[1] This proviso was added by section 13 (ii), *ibid*

[2] Section 13 was omitted by section 14, *ibid*

[3] Added by Madras Act 11 of 1961

CHAPTER IV

APPELLATE TRIBUNAL

The Appellate Tribunal.

15. (1) The Government shall from time to time appoint, as and when may be necessary an Appellate Tribunal consisting of one but not more than three members :

Provided that the member, or as the case may be, at least one member, of the Tribunal, shall be a Judicial Officer not below the rank of District Judge, or an advocate of not less than ten years' standing.

(2) Where the Appellate Tribunal consists of more than one member, [1][the judicial officer or the advocate as the case may be], shall be its Chairman.

(3) Where the Appellate Tribunal consists of three members, the following provisions shall apply :—

(*a*) The functions of the Appellate Tribunal may be exercised by a Bench consisting of all the members of the Tribunal or by a Bench consisting of two members constituted by the Chairman or, in the event of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other member :

Provided that, if any case which comes before a Bench (of which the Chairman is not a member) involves a question of law, the Bench may, in its discretion, reserve such case for decision by a Bench to be constituted under this clause of which the Chairman shall be a member.

(*b*) Where an appeal is heard by all the three members of the Tribunal, and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(*c*) Where an appeal is heard by a Bench consisting of two members, and the members are divided in their opinion on any point, the point shall be found against the appellant and the members shall, after delivering their separate opinions pronounce a joint judgment announcing the result of the findings, if any, on which they are agreed and of the findings recorded against the appellant on points on which they are divided.

(4) Subject to the provisions of this Act, the Appellate Tribunal shall have power to determine the times and places of its sittings and to regulate its own procedure and the procedure in all matters arising out of the discharge of its functions.

1. These words were substituted for the words "the Judicial Officer" by section 14-A of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958).

CHAPTER V

RETURN OF INCOME, ASSESSMENT, ETC.

16. [1][(1) Every person who held land in excess of the exempted extent at any time during the previous year shall, unless he has been permitted to compound the tax under se[illegible] to the Agricultural Income-tax Officer so as [illegible] a return in the [illegible] manner setting [illegible] previous year — Return of income.

(2) In the case of any person whose holding is, in the opinion of the Agricultural Income-tax Officer, of such extent as to render such person liable to payment of agricultural income tax in any financial year, he may serve in that year a notice in the prescribed form requiring such person to furnish within such period not being less than thirty days as may be specified in the notice a return in the prescribed form and verified in the prescribed manner setting forth along with such other particulars as may be provided for in the notice his total agricultural income during the previous year.]

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2) or, having furnished a return under any of those sub-sections discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

(4) The Agricultural Income-tax Officer may serve on any person who has made a return under sub-section (1), or upon whom a notice has been served under sub-section (2), a notice requiring him, on a date to be therein specified, to produce or cause to be produced, such accounts or documents as such officer may require, or to furnish in writing and verified in the prescribed manner information in such form and on such points or matters including with the previous approval of the Commissioner a statement of all assets and liabilities not included in the accounts, as such officer may require for the purposes of this section:

Provided that such officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

17. (1) If the Agricultural Income tax Officer [illegible] satisfied that a return made under section 16 is [illegible] in writing, [illegible] sessee and determine [illegible] [illegible] such return.

[1] These sub-sections were substituted for the original sub-[illegible] Madras Plantations Agricultural Income-tax ([illegible]) XXIX of 1958).

(2) If the Agricultural Income-tax Officer is not satisfied without requiring the presence of the person who made the return or the production of evidence that the return is correct and complete, he shall serve on the person who made the return a notice requiring him on the date specified therein, either to attend the office of the Agricultural Income-tax Officer or to produce or to cause to be produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after considering such evidence as such person may produce and such other evidence as that officer may require on specified points, assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such assessment.

(4) If any person fails to make a return under sub-section (2) of section 16, or fails to comply with all the terms of a notice issued under sub-section (4) of that section or under sub-section (2) of this section, the Agricultural Income-tax Officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment, and, in the case of a firm, may refuse to register it or may cancel its registration, if it is already registered :

Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Agricultural Income-tax Officer to the firm intimating his intention to cancel its registration.

(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be—

(*a*) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed, and the sum payable by him on the basis of such assessment shall be determined :

Provided that, if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 12 :

Provided further that, when any of such partners is a person not resident in the State, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally and the sum so determined as payable shall be paid by the firm ; and

(*b*) in the case of an unregistered firm, the Agricultural Income-tax Officer may, instead of determining the sum payable by the firm itself, proceed in the manner laid down in clause (*a*) as applicable to a registered firm, if, in his opinion, the aggregate amount of the tax payable by the partners under

such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm

(6) When in the course of the assessment of the total agricultural income of the assessee it is found that a loss has been sustained which he is entitled to have set off under section 12, the Agricultural Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him

Power to make provisional assessment in advance of regular assessment

18. (1) The Agricultural Income-tax Officer may, at any time after the receipt of a return made under section 16, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, after giving due effect to the allowance referred to in section 12

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received although the return of the partner himself may not have been received

(3) A firm may be provisionally assessed under sub-section (1) as if it were an unregistered firm, unless the firm fulfils such conditions as the Government may by notification in the *Fort St George Gazette*, specify in that behalf

(4) There shall be no right of appeal against a provisional assessment made under sub section (1)

(5) For the avoidance of doubt, it is hereby declared that the provisions of sections 40 and 41 apply in relation to any tax payable in pursuance of a provisional assessment made under sub-section (1) as if it were a regular assessment made under section 17

(6) After a regular assessment has been made under section 17, any amount paid towards a provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment, and where the amount paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee

(7) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination of the merits, of any issue which may arise in the course of the regular assessment under section 17

Cancellation of assessment in certain cases

19. Where an assessee, within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Agricultural Income-tax Officer that he was prevented by sufficient cause from making the return required by section 16 or that he did not receive the notice issued under sub-section (2) or sub-section (4) of that section or sub-section (2) of section

17 or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of any such notice, the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 17.

Penalty for concealment of income.

20. (1) If the Agricultural Income-tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal is satisfied that any person—

(*a*) has, without reasonable cause, failed to furnish the return of his total agricultural income which he was required to furnish under sub-section (1) or sub-section (2) of section 16, or

(*b*) has, without reasonable cause, failed to furnish such return within the time allowed and in the manner required by sub-section (1) of section 16 or by a notice served under sub-section (2) of that section, or

(*c*) has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income, he or it may direct that such person shall pay by way of penalty, in addition to the amount of agricultural income-tax, if any payable by him, a sum not exceeding that amount :

Provided that—

(*a*) no penalty shall be imposed under this sub-section upon a person who has failed to furnish a return under sub-section (1) of section 16, if he proves that he has no income liable to tax ;

(*b*) where a person has failed to comply with a notice under sub-section (2) of section 16 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall not exceed twenty-five rupees;

(*c*) no penalty shall be imposed under this sub-section upon any person assessable as the agent of any person not resident in the State for failure to furnish the return required under section 16 unless a notice under sub-section (2) thereof or under section 35 has been served on him ;

(*d*) when the person liable to penalty is a registered firm, or an unregistered firm treated under section 17 (5) (*b*) as a registered firm, so that the amount of the agricultural income-tax payable by the firm itself has not been determined, that amount shall be taken to be an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total agricultural income, and in the cases referred to in clauses (*b*) and (*c*), the amount of the agricultural income-tax which would have been avoided if the income as returned had been accepted as the correct

between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total agricultural income and the amount of the tax payable by an unregistered firm on income equal to the income of the firm as actually returned by the firm

(2) If the Agricultural Income-tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal in

the instrument of the partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, he or it may direct that such partner shall in addition to the agricultural income-tax payable by him pay by way of penalty a sum not exceeding the amount of agricultural income-tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income, and no refund or other adjustment shall be claimable by any other partner by reason of such direction

(3) No order under sub section (1) or sub section (2) shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under sub-section (1)

(5) The Appellate Tribunal, the Commissioner or the Assistant Commissioner shall, on making an order under sub-section (1), send forth with a copy of the same to the Agricultural Income-tax Officer concerned

Power to assess individual members of certain association

21. (1) Where the Agricultural Income-tax Officer is satisfied that any association of individuals other than a Hindu undivided family, an Aliyasantana family or branch, Marumakkattayam tarwad or tavazhi or a company is under the control of one member thereof, and that such association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, with the previous approval of the Commissioner of Agricultural Income-tax, pass an order that the sum payable as agricultural income-tax by the association shall not be determined, and thereupon the share of each member in the agricultural income of the association shall be included in his total agricultural income for the purpose of his assessment thereon

Explanation —A member of an association who owns the whole or the major portion of the capital of the association shall not by reason only of that fact be deemed to control the firm or association

(2) The Commissioner of Agricultural Income-tax shall not give his approval to any order proposed to be passed by the Agricultural Income-tax Officer, under this section until he has given the firm or association concerned an opportunity of being heard

(3) Where any member of an association of individuals makes default in the payment of tax on his share of income

which has been included in his total agricultural income under the provisions of sub-section (1), such tax may be recovered from the association.

(4) Where agricultural income-tax is recoverable from an association under this section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable and such association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter VI.

Assessment in case of departure from the State.

22. (1) Where it appears to the Agricultural Income-tax Officer that any person intends to alienate his right, title and interest in any [1][land] in the State and that such person may leave the State during the financial year or shortly after its expiry and that he has no present intention of returning the Agricultural Income-tax Officer may proceed to assess him on his total agricultural income for the period from the expiry of the last previous year for which he has been assessed to the probable date of his departure from the State. For each completed previous year included in this period, an assessment shall be made on the total agricultural income of such person at the rate at which it would have been charged had such income been fully assessed, and for the period from the expiry of the last of such previous years to the probable date of departure, the Agricultural Income-tax Officer shall estimate the total agricultural income of such person and assess it at the rate applicable to the agricultural income:

Provided that nothing herein contained shall authorise an Agricultural Income-tax Officer to assess any agricultural income which has escaped assessment or has been assessed at too low a rate in respect of which he is debarred from issuing a notice under section 35.

(2) For the purpose of making an assessment under sub-section (1), the Agricultural Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 16 setting forth along with such other particulars as may be provided for in the notice, his total agricultural income for each of the completed previous years comprised in the period first referred to in sub-section (1) and his estimated total agricultural income for the period from the expiry of the last such completed previous year to the probable date of his departure, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 16.

Assessment in case of transfer of right in [2][land].

23. Where a person in receipt of agricultural income from any [2][land] in the State is found to have transferred his interest in such [2][land] to another person the transferor

[1]. This word was substituted for the word "plantation" by section 16 of the Madı Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XX of 1958).

[2]. This word was substituted for the word "plantation" by section 17 of the Madı Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras XXIX of 1958).

and the transferee shall each be assessed in respect of his actual share, if any, of such agricultural income

Provided that when the transferor cannot be found the assessment of such agricultural income of the previous year in which the transfer took place up to the date of the transfer and for the years preceding that year shall be made on the transferee in like manner and to the same amount as it would have been made on the transferor or when the tax in respect of the assessment made for any or all of such years assessed on the transferer cannot be recovered from him, it shall be payable by and recoverable from the transferee and the transferee shall be entitled to recover from the transferor the amount of any tax so paid

Tax of deceased person payable by representatives.

24 (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay, out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge, the agricultural income tax assessed as payable by such person or any agricultural income-tax which would have been payable by him under this Act if he had not died

(2) Where a person dies before the 1st June in any year or before he is served with a notice under sub section (2) of section 16 or under section 35, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub section (2) of section 16 or under section 35, as the case may be, comply therewith, and the Agricultural Income tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee

(3) Where a person dies without having furnished a return which he has been required to furnish under section 16, or having furnished a return which the Agricultural Income tax Officer has reason to believe to be incorrect or incomplete, such officer may make an assessment of the total agricultural income of such person and determine the agricultural income tax payable by him on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under section 16 or section 17 have required from the deceased person

...siness of company, firm or ...ation.

25 (1) Where
a company, firm or
through which such
any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the ...
discontinuance, in addition to the assessment, if
the basis of the agricultural income received
year

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of such discontinuance wthin fifteen days thereof and where any person fails to give the notice required by this sub-section, such officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of a company, firm or association of persons up to the date of the discontinuance of the business.

(3) Where an assessment is to be made under sub-section (1), the Agricultural Income-tax Officer may serve on the person whose agricultural income is to be assessed or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 16 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

Liability in case of discontinued business of firm or association.

26. Where agricultural income is received by a firm or association of persons and the business of such firm or association is discontinued or such firm or association is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or member of such association shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association and all the provisions of this Act shall, so far as may be, apply to such assessment.

Procedure in registration of firms.

27. (1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to agricultural income-tax.

(2) The application shall be made by such person or persons and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed, and it shall be dealt with by the Agricultural Income-tax Officer in such manner as may be prescribed.

Change in constitution of a firm and succession to business.

28. (1) Where at the time of making an assessment under section 17, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted at the time of making the assessment.

If the agricultural income-tax cannot be recovered from the firm as so constituted, such tax shall be recoverable from the persons who were members of the firm during the previous year.

(2) Where a person carrying on any business in the course of which agricultural income is received has been succeeded in such capacity by another person, such person

and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year

Provided that, when the person succeeded in the business cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of

or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid

29 (1) Where at the time of making an assessment under section 17, it is claimed by or on behalf of any member of a Hindu undivided family, an Aliyasanthana family or branch or a Marumakkattayam tarwad or tavazhi hitherto assessed as undivided that a partition has taken place among the members or groups of members of such family, branch, tarwad or tavazhi the Agricultural Income tax Officer shall make such inquiry thereinto as he may think fit, and if he is satisfied that the joint family property has been partitioned among the various members or groups of members in definite portions, he shall record an order to that effect

Assessment after partition of a Hindu undivided family, Aliyasanthana family branch, Marumakkattayam tarwad or tavazhi

Provided that no such order shall be recorded until notice of the inquiry has been served on all the adult members of the family, branch, tarwad or tavazhi entitled to the property as far as may be practicable or in such other manner as may be prescribed

(2) Where such an order has been passed, the Agricultural Income tax Officer shall make an assessment of the total agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such, as if no partition had taken place and each member or group of members shall, in addition to any agricultural income tax for which he or it may be separately liable, and notwithstanding anything contained in clause (a) [1][of sub section (2) of section 10] be liable for a share of the tax on the income so assessed according to the portion of the family, branch, tarwad or tavazhi property allotted to him or it, and the Agricultural Income tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 17

Provided that all the members and groups of members whose family, branch, tarwad or tavazhi property has been partitioned shall be liable jointly and severally for the tax on the total agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such up to the date of the partition

[1]This expression was substituted for the expression of section 10 by section 18 the Madras Plantations Agricultural (Amendment) Act, 1958 (Madras Act [1958)

(3) Where such an order has not been passed in respect of a Hindu family, an Aliyasanthana family or branch or a Marumakkattayam tarwad or tavazhi hitherto assessed as undivided, such family, branch, tarwad or tavazhi shall be deemed for the purpose of this Act to continue to be an undivided family, branch, tarwad or tavazhi.

Notice of demand.

30. When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment.

31. (1) Any assessee objecting to the amount of income assessed or tax determined or loss computed under section 17 or denying his liability to be assessed under this Act or objecting to any order under any of the provisions of sections 19, 20, 21, 25, 29 and 41 made by the Agricultural Income-tax Officer or to the cancellation by him of the registration of a firm or to the refusal to register a firm may appeal to the Assistant Commissioner against the assessment or against such order :

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 17.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The appeal shall be presented within a period of thirty days from the date of service of the order ; but the Assistant Commissioner may admit an appeal presented after the expiration of the said period, if he is satisfied that the appellant had sufficient cause for not presenting it within the said period.

(4) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make or cause to be made such further inquiry as be thinks fit:

Provided that on the application of the appellant and at his cost the Assistant Commissioner may, in appropriate cases, issue a commission to ascertain and report the yield and cultivation expenses or the rent and collection charges of the properties of the assessee included in the assessment order, and orders on the appeal shall be passed only after conisdering the said report.

(5) In disposing of an appeal, the Assistant Commissioner may—

(*a*) in the case of an order of assessment—

(i) confirm, reduce, enhance or annul the assessment;

(ii) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after such further inquiry as may be directed ; or

(b) in the case of any other order, confirm, cancel or vary such order

Provided that no enhancement of an assessment or penalty shall be made under this section unless the appellant has had a reasonable opportunity of being heard against such enhancement

Provided further that at the hearing of any appeal against an order of an Agricultural Income tax Officer the Agricultural Income tax Officer shall have the right to be heard either in person or by a representative

(6) Where, as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Assistant Commissioner may authorise the Agricultural Income tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association

(7) The Assistant Commissioner shall, on the conclusion of the appeal communicate the orders passed by him to the assessee and to the Commissioner

Appeals against orders of Assistant Commissioner

32 (1) Any assessee objecting to an order passed by an Assistant Commissioner under section 20 or section 31 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him

(2) The Commissioner may, if he objects to any order passed by an Assistant Commissioner under section 31 direct the Agricultural Income tax Officer to appeal to the Appellate Tribunal against such order, and such appeal, may be presented within sixty days of the date on which the order is communicated to the Commissioner by the Assistant Commissioner

(3) The Appellate Tribunal may admit an apppeal after the expiry of the sixty days referred to in sub sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of five per cent of the sum appealed against [1][subject to a minimum of five rupees]

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit and shall communicate any such orders to the assessee and to the Commissioner

[1] These words were substituted for the words 'subject to a minimum of twenty five rupees and a maximum of one hundred rupees" by section 19 (1) of the Madras Plantations Agricultural Income tax (Amendment) Act, 1958 (XI of 1958)

[1][(5-A) The Appellate Tribunal may, in such cases and to such extent as may be prescribed, order refund of the fee paid under sub-section (4).]

(6) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made the Appellate Tribunal may authorise the Agricultural Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.

(7) Save as provided in section 54 orders passed by the Appellate Tribunal on appeal shall be final.

Appeal against an order of refusal to refund.

33. The provisions of sections 31 and 32 shall so far as may be, apply to any order of refusal of any refund admissible under this Act or the rules made thereunder.

Revision.

34. (1) The Commissioner may of his own motion or on application by an assessee call for the record of any proceeding under this Act which has been taken by any authority subordinate to him and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act may pass such orders thereon as he thinks fit :

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard :

Provided further that an order passed declining to interfere shall not be deemed to be an order prejudicial to the assessee.

(2) The Commissioner shall not revise any order under sub-section (1) if—

(*a*) where an appeal against an order lies to the Appellate Tribunal the time within which such appeal may be made has not expired ; or

(*b*) where an appeal against the order has been made to the Appellate Tribunal the appeal is pending before it ; or

(*c*) the order has been made more than [2][three years] previously.

(3) Every application by an assessee under sub-section (1) shall be accompanied by a fee of fifty rupees.

(4) Any order passed under sub-section (1) shall subject to revision by the High Court under section 54 be final.

Income escaping assessment.

35. If for any reason agricultural income chargeable to tax under this Act has escaped assessment in any financial year or has been assessed at too low a rate [3][or has been under-assessed] the Agricultural Income-tax Officer may, at any

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[1] This sub-section was inserted by section 19 (ii), *ibid.*

[2] These words were substituted for the words "one year" by section 20 of the Mad Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XX of 1958).

[3] These words were inserted by section 21 (i), *ibid.*

time within [1][five years] of the end of that year serve on the person liable to pay the tax or in the case of a company on the principal officer thereof a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 16 and may proceed to assess or re-assess such income and the provisions of this Act shall so far as may be, apply accordingly as if the notice were issued under that sub-section

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment as the case may be

Rectification of mistake

36. (1) The authority which passed an order on appeal or revision may at any time within three years from the date of such order passed by him on appeal or in revision and the Agricultural Income tax Officer may at any time within three years from the date of any assessment or refund order passed by him of his own motion rectify any mistake apparent from the record of the appeal revision assessment or refund, as the case may be, and shall, within the like period, rectify any such mistake which has been brought to his notice by an assessee

Provided that no such rectification shall be made having the effect of enhancing an assessment or reducing a refund unless the appellate or revisional authority or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income tax Officer shall make any refund which may be due to such assessee

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 30 and the provisions of this Act shall apply accordingly

[2][ ]

Power to take evidence on oath, etc.

38. The Appellate Tribunal, the Commissioner, the Assistant Commissioner and the Agricultural Income-tax Officer shall, for the purpose of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely —

[Central Act V of 1908]

(*a*) enforcing the attendance of any person and examining him on oath or affirmation ,

[1] These words were substituted for the words "three years" by section 21 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XIX of 1958)

[2] Section 37 ... of the Madras Plantations Agr

(*b*) compelling the production of documents ; and

(*c*) issuing commissions for the examination of witnesses, and for ascertaining the yield and cultivation expenses in respect of any [1][land]; and any proceeding before the Appellate Tribunal, the Commissioner or Assistant Commissioner or the Agricultural Income-tax Officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code. Central XLV of

Power to call for information, etc.

39. (1) The Assistant Commissioner or the Agricultural Income-tax Officer may for the purposes of this Act—

(*i*) require any Hindu undivided family, an Aliyasanthana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties, a firm or a company to furnish a return of the names of all the members of the family, branch, tarwad, tavazhi, firm or company, as the case may be, their addresses and such other particulars as may be required for the purposes of assessment;

(*ii*) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses;

(*iii*) impound and retain in his custody for such period as he thinks fit any books of account or other documents produced before him in any proceedings under this Act :

Provided that the Assistant Commissioner or the Agricultural Income-tax Officer shall not—

(*a*) impound any books of account or other documents without recording his reasons for so doing ; or

(*b*) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor.

(2) The Assistant Commissioner or the Agricultural Income-tax Officer may for the purposes of this Act enter and inspect any place where accounts are maintained, or other documents are kept, and take into his custody any such accounts or documents:

[2][Provided that if any such place is a dwelling house, such officer shall not enter and inspect such place after 6 p.m. and before 6 a.m.] :

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[1] This word was substituted for the word "plantation" by section 22 of the Mac Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XX of 1958).

[2] This proviso was inserted by section 23 (i), *ibid.*

Provided that if any such place is a dwelling house or an apartment, in the actual occupation of a woman such officer shall, before entering such house or apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing

in his behalf

(3) If the Assistant Commissioner or the Agricultural Income tax Officer [1][apprehends resistance or] is resisted in the exercise of his power or in the discharge of his duties under this section the Magistrate having jurisdiction shall on the written requisition from such officer, direct any police officer not below the rank of Sub Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty

CHAPTER VI

RECOVERY OF TAX AND PENALTIES

Recovery of tax and penalties

40 Any amount specified as payable in a notice of demand under section 30 or an order under sections 31, 32 or 34 shall be paid in such number of instalments, within such time, at such place to such person and in such manner as may be prescribed, and any assessee failing so to pay shall be deemed to be in default

Provided that, when an assessee has presented an appeal under section 31, the Agricultural Income tax Officer may, in his discretion, treat the assessee as not being in default so long as such appeal is undisposed of

41. [2][ ]

Mode and time of recovery

[3][(1)] The Agricultural Income tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue

Provided that, without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have the powers which under the Code of Civil Procedure, 1908, a Civil Court has for the purpose of the recovery of an amount due under a decree

Central Act V of 1908

[3][(2)] No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of

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[1] These words were inserted by section 23 (ii) of the Madras Plantations Agricultural [In]come-tax (Amendment) Act 1958 (Madras Act XXIX of 1958)

[2] Original sub-sections (1) and (2) were omitted by section 23 A, *ibid.*

[3] Original sub-section (3) was renumbered as sub-section (1) by *ibid*

[3] The original sub-section (4) was renumbered as sub-section (2) by section [..] the Madras Plantations Agricultural Income-tax (Amendment) Act, [..] [Ac]t XXIX of 1959)

three years from the latest day fixed for payment in the notice of demand served under section 30 or where the assessee has been treated as not being in default under the proviso to section 40 pending his appeal, after the expiration of three years from the date on which the appeal is decided.

Right, title and interest in property sold for arrears of tax in certain cases.

42. (1) Where any property of a Hindu undivided family, an Aliyasanthana family or branch, or a Marumakkattayam tarwad or tavazhi is sold for the realization of arrears of agricultural income-tax, the right, title and interest of all the members of such family, branch, tarwad, or tavazhi in the property shall pass to the purchaser.

(2) Where any person has been assessed to agricultural income-tax on the agricultural income derived from a [1][land] held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the [1][land] so held by him may be attached and sold for the realization of such arrears and on such sale, [2][the right, title and interest of the assessee and of such other persons] in the said [1][land] shall pass to the purchaser.

Recovery of penalties.

43. Any sum imposed by way of penalty under the provisions of section 20 [3][or] section 25 [4][....] shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

CHAPTER VII

REFUNDS

Refunds.

44. (1) If any person satisfies the Agricultural Income-tax Officer that the amount of agricultural income-tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which such person is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

(2) The appellate or revisional authority in the exercise of his appellate or revisional powers, if satisfied to the like effect, shall cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person, such other person only shall be entitled to a refund under this section in respect of such income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive or the review by any officer of a decision of his own which is subject to appeal or revision,

[1] This word was substituted for the word "plantation" by section 24 (i), *ibid.*

[2] These words were substituted for the words "the right, title and interest of s person" by section 24 (ii), *ibid.*

[3] This word was inserted by section 24-A, *ibid.*

[4] The words and figures "or section 41" were omitted by *ibid.*

or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other than or greater than that relief

45 Refunds shall also be admissible under this Act in such cases and to such extent as may be prescribed — Refunds admissible under rules

46. Whe e under any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income tax Officer, the Assistant Commissioner or the Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount, against the agricultural income tax, if any, remaining payable by the person to whom the refund is due — Power to set off amount of refund against tax remaining payable.

47. Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 44 is unable to receive such refund or to make such claim, his executor, administrator or other legal representative or the trustee or receiver as the case may be shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate — Power of representative of deceased person or persons disabled to make claim on his behalf

48. No claim to any refund of agricultural income-tax under this Chapter shall be allowed, unless it is made within three years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received or one year from the date on which the assessment is completed, whichever is later — Limitation of claims for refund

CHAPTER VIII

OFFENCES AND PENALTIES

49. If any person makes a statement in a verification mentioned in section 16 or sub section (2) of section 31 or) application under he either knows or) be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code — False statements in declaration.

entral Act .LV of 1860

50. If any person fails without reasonable cause or excuse— — Failure to furnish return or to supply information.

(a) to furnish in due time any of the returns specified in sub section (1) or sub section (2) of section 16 [1][ ] or section 39 or

(b) to grant inspection or allow copies to be taken in accordance with the provision of section 60, or

(c) to produce or cause to be produced on or before the date mentioned in any notice under sub section (4)

[1] The word and figures 'section 13' were omitted by section 25 (1) of ntations Agricultural Income tax (Amendment) Act, of 1958)

of section 16, such accounts or documents as are referred to in the notice,

[1][he shall, on conviction by a magistrate of the first class, be punishable] with fine which may extend to five rupees for every day during which the default continues.

Prosecution to be at the instance of the Assistant Commissioner.

51. (1) A person shall not be proceeded against for an offence under section 49 or section 50 except at the instance of the Assistant Commissioner.

(2) Before instituting proceedings against any person under sub-section (1), the Assistant Commissioner shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The Assistant Commissioner may, either before or after the institution of proceedings, compound any such offence.

Disclosure of information by public servant.

52. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act other than proceedings under this Chapter or in any record of an assessment proceeding or any proceeding relating to the recovery of a demand prepared for the purposes of this Act shall be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 no Court shall, save as provided in this Act be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of such record or to give evidence before it in respect thereof. Central I of 1872

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

(3) Nothing contained in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of a prosecution under the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition or for the purposes of a prosecution under this Act; or Central XLV of 1[illegible]

(*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act; or

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[1] These words were substituted for the words "he shall be punishable" by secti[on] 25(ii), *ibid*.

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

(*d*) of any such particulars to a Civil Court in any suit to which the Government are a party which relates to any matter arising out of any proceeding under this Act, or

(*e*) of any such particulars to any officer appointed to audit agricultural income tax receipts or refunds, or

(*f*) of any such particulars relevant to any inquiry into the conduct of an official of the Agricultural Income tax Department to any persons appointed, commissioners under any law relating to enquiries into the conduct of public servants or to an officer otherwise appointed to hold such enquiry or the State Public Service Commission when exercising its functions in relation to any matter arising out of any such enquiry or

(*g*) of any such particulars relevant to any inquiry into a charge of misconduct in connection with the proceedings under this Act against a lawyer or registered accountant, or

(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 to impound an insufficiently stamped document, or

Central Act II of 1899

(*i*) of such facts as may be necessary to enable a refund to be given in accordance with this Act or the rules made thereunder or

(*j*) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realize any tax or duty imposed by it, or

(*k*) of such facts to any authority exercising powers under any Act of the State Legislature imposing any tax or duty as may be necessary for enabling it duly to exercise such powers, or

(*l*) of such facts as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or

(*m*) of such particulars to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to agricultural income-tax in any particular year or years where, under the provisions of any law for the time being in force, such fact is required to be established, or

(*n*) of such particulars in any rent roll or other document, produced by any assessee as the basis of agricultural income or any part of such
or

(*o*) of such facts as may be necessary to enable an intending purchaser or other transferee of property to ascertain the nature and extent of the liability of any such property for agricultural income-tax.

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed, or the record of any statement or deposition made, in a proceeding under section 29 or to the giving of evidence by a public servant in respect thereof.

(5) No prosecution shall be instituted under this section—

(*a*) against a person who is not removable from his office save by or with the sanction of the Government or some higher authority, except with the previous sanction of the Government, or

(*b*) against any other person, except with the previous sanction of the authority competent to remove him from his office.

CHAPTER IX

MISCELLANEOUS

Place of assessment.

53. (1) Subject to any orders passed under sub-section (2), the agricultural income of a person shall be assessed by the Agricultural Income-tax Officer of the area in which is situated the [1][land] from which the greater part of the income is derived:

Provided that, when an assessee has made a return under sub-section (1) of section 16 to the Agricultural Income-tax Officer having jurisdiction over the assessee's place of residence or the place where any of his [1][land] is situated or where his accounts are maintained, he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the officer concerned unless for reasons to be recorded in writing he passes an order that the assessment shall be made in any other place.

(2) (*a*) An assessee who has not made a return under section 16 may, before the expiry of the time allowed for the submission of the return, apply to the Agricultural Income-tax Officer of the area in which is situated the [1][land] from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the State, and the Agricultural Income-tax Officer shall refer the matter to the Assistant Commissioner whose decision thereon shall be final.

(*b*) Where an order is passed under clause (*a*) the assessee shall not be entitled to make any further application to change his place of assessment :

[1] This word was substituted for the word "plantation" by section 26 of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 (Madras Act XX of 1958).

Provided that the Agricultural Income tax Officer may allow the assessee to be assessed at any other place upon such conditions as he thinks fit

(3) Notwithstanding anything contained in this section, every Agricultural Income tax Officer shall have all the powers conferred by or under this Act on an Agricultural Income-tax Officer in respect of any agricultural income derived from [1][land] situated within the area for which he is appointed

54. (1) Within sixty days of the date on which he is served with a notice of the order, the assessee or the Commissioner, in the case of an order under sub section (5) of section 32 and the assessee, in the case of an order under section 34 enhancing the assessment or otherwise prejudicial to him Revision High Co

Provided that the High Court may admit an application preferred after the period of sixty days aforesaid if it is satisfied that the applicant had sufficient cause for not preferring the application within that period

(2) The application shall be in the prescribed form, shall be verified in the prescribed manner and shall, where it is made by the assessee, be accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed

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Provided that no application shall be dismissed unless the applicant has had a reasonable opportunity of being heard in support thereof

amend the order against which the application was preferred, or remit the matter to the Appellate Tribunal or the Commissioner, as the case may be, with the opinion of the High Court on the question or questions of law raised or pa s such other order in relation to the matter as the High Court thinks fit

(b) Where the High Court remits the matter to the Appellate Tribunal or the Commissioner under clause (a) with its opinion on the question or questions of law raised, the Appellate Tribunal or the Commissioner, as the case may be, shall amend the order passed by it or him in conf ity with such opinion

1 This word was substituted for the word "plantatı

(5) Before passing an order under sub-section (4) the High Court may, if it considers it necessary so to do, remit the application to the Appellate Tribunal or the Commissioner, as the case may be, and direct it or him to return the application with its or his finding on any specific question or issue.

(6) Notwithstanding that an application has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case :

Provided that, if as a result of the application any change becomes necessary in such assessment, the High Court may authorise the assessing authority to amend the assessment, and on such amendment being made, the amount overpaid by the assessee shall be refunded to him without interest, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(7) (*a*) The High Court may, on the application either of the assessee or of the Commissioner, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(*b*) The application for review shall be preferred within such time, and in such manner as may be prescribed, and shall, where it is preferred by the assessee, be accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed.

(8) In respect of every application preferred under sub-section (1) or (7), the costs shall be in the discretion of the High Court.

(9) When any person defaults to pay the costs ordered by the High Court, the Agricultural Income-tax Officer concerned may apply for the realization of the amount to the District Court having local jurisdiction and such Court shall, on receipt of the Agricultural Income-tax Officer's application execute the order as if it were its own decree.

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55. (1) Any assessee who is entitled or required to attend before any Agricultural Income-tax Authority in connection with any proceeding under this Act otherwise than when required under section 38 to attend personally for examination on oath or affirmation, may attend either in person or by any person duly authorised by him in writing in this behalf being a relative or a person wholly or principally employed in the service of the assessee or a lawyer or an accountant or an Income-tax practitioner and not being disqualified on the ground of misconduct by or under any law or under any order of Government.

(2) No person who has been dismissed from Government sereice shall be qualified to represent an assessee under sub-section (1); and if any lawyer or chartered accountant or an Income-tax practitioner is found guilty of misconduct

in connection with any proceedings under the Indian Income-tax Act, 1922 or this Act by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1)

Central Act XI of 1922

Provided that—

(*a*) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(*b*) any person against whom such direction is made may, within one month of the making of the direction, appeal to the prescribed authority to have the direction cancelled, and

(*c*) no such direction shall take effect until one month from the making thereof, or, when an appeal is preferred, until the disposal of the appeal

(3) In this section—

(*i*) a person regularly employed by the assessee shall include any officer of a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 with which the assessee maintains a current account or has other regular dealings,

Central Act II of 1934

(*ii*) "accountant" means a member of an association of accountants recognized in this behalf by the Government,

(*iii*) "Income tax Practitioner" means an Income tax practitioner as defined in the Indian Income tax Act, 1922,

Central Act XI of 1922

(*iv*) "lawyer" means any person entitled to plead in any court of law in the State

Receipt to given.

56 A receipt shall be given for any money paid or recovered under this Act

Indemnity.

57. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof

Manner of service of notice

58. (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a court under the Code of Civil Procedure, 1908,

Central Act V of 1908

(2) Any such notice or requisition may, cas
firm, Hindu undivided family, an
or branch or a Marumakkattayam
addressed to any member of the
ryajaman or karnavan, or any adult

branch, tarwad or tavazhi and, in the case of any other association of persons, be addressed to the principal officer thereof.

Power to grant extension of time for returns, etc.

59. The Agricultural Income-tax Officer may, in his discretion, in the case of any person or class of persons, extend the date before which the return under sub-section (1) of section 16 has to be furnished or, on application by an assessee, allow him such extension or extensions of time as the officer thinks fit to furnish the return or comply with the terms of a notice under this Act.

Power to inspect registers of members of company, etc.

60. Any Agricultural Income-tax Authority or any person authorised by him in writing in that behalf may, during such hours as may be prescribed, inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

Power to make rules.

61. (1) The Government may, after previous publication make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules—

(*a*) as to the manner in which and the procedure by which agricultural income of a person shall be computed;

(*b*) as to the deductions to be made in the computation of agricultural income ;

(*c*) as to the special deductions and allowances in cases where expenditure has to be incurred for a number of years, before income is derived therefrom;

(*d*) as to the form of returns under section 16 and the manner in which they should be verified;

(*e*) as to the form of notice of the demand mentioned in section 30;

(*f*) as to the powers and duties of Income-tax Authorities appointed under sub-section (2) of section 14 and the relation of such authorities to each other;

(*g*) as to the form in which appeals under section 31 shall be presented and the manner in which they shall be verified;

(*h*) as to the form of the notice of demand mentioned in sub-section (3) of section 36;

(*i*) as to the manner in which and the authority to whom applications for refund shall be made and the procedure to be followed in respect of such applications;

[1][(j) as to the circumstances under which, and the manner in which, remission may be granted to persons permitted to compound the agricultural income tax under section 65],

[2][(k)] as to all other matters expressly required or allowed by this Act to be prescribed

[3][(3) All rules made under this Act shall, as soon as possible after they are made, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendments or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session]

Bar of in Courts

62. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act

puta eriod ation

63. In any appeal tion 54, the and the time requisite for obtaining a copy of such order shall be excluded

64. [4][ ]

Composition of agricultural income tax

65. [5][(1) Any person who holds land not exceeding four times the exempted extent may apply to the prescribed officer for permission to compound the agricultural income-tax payable by him and to pay in lieu thereof a lump sum at the rate or rates specified in Part II of the Schedule]

(2) Every application under sub section (1) shall be submitted in such form, in such manner and within such time as may be prescribed

(3) The prescribed officer, after satisfying himself that the particulars specified in the application are correct may, by order in writing, grant the permission

(4) A permission granted under sub section (3) [6][shall subject to the provisions of sub section (1), be in force for a period of three years commencing from the financial year for which such permission is granted], and in respect of that period the provisions of this Act regarding the submission of

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[1]This clause was inserted by section 27 (i) of the Madras Plantations Agricultu Income-tax (Amendment) Act, 1958 (Madras Act XXIX of 1958)

[2]The original clause (j) was relettered as clause (k) by *ibid*

[3]This sub-section was substituted for the original sub-section by section 27 (ii) *ibid*

[4]Section 64 was omitted by section 28 *ibid*

[5]This sub-section was substituted for the original sub-section by section 29 of the Madras Plantations Agricultural Income-tax (' Mad Act XXIX of 1958)

[6]These words were substituted for the words shall be which it is granted' by section 29 (ii) *ibid*

returns, accounts or other documents, the assessment to agricultural income-tax or any other matter incidental thereto shall not apply in relation to the grantee:

[1][Provided that the provisions of sections 35 and 36 shall, so far as may be, apply in relation to the composition of agricultural income-tax under this section, as they apply in relation to the assessment of agricultural income-tax under this Act.]

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[1] This proviso was added by section 29 (iii) *ibid*

Provisions of the Madras Plantations Agricultural Income-tax (Amendment) Act, 1958 *(Madras Ac XXIX of* 1958), *not incorporated in the principal Act.*

1. *Short title and commencement.*—(1) This Act may be called the Madras Plantations Agricultu Income-tax (Amendment) Act, 1958.

(2) It shall be deemed to have come into force on the 1st April, 1958.

* * * *

31. *Repeal of Madras Act XIX of* 1954.—The Madras Land Revenue (Surcharge) Act, 19 (Madras Act XIX of 1954), is hereby repealed:

Provided that such repeal shall not affect the previous operation of the said Act or anyth already done or suffered, or any right, title or obligation or liability already acquired, accrued incurred or any remedy or proceeding in respect thereof.

32. *Completed assessments to be re-opened.*—Any assessment completed before this Act is pub i in the *Fort St. George Gazette* may be re-opened and assessment made at the rates applicable to su a case under the principal Act as amended by this Act.

33. *Adjustment of surcharge under Madras Act XIX of* 1954.—Any surcharge on the land reven collected from any person under the Madras Land Revenue (Surcharge) Act, 1954 (Madras A XIX of 1954), for the fasli year 1957-58 shall be adjusted towards the agricultural income-tax d from such person under the principal Act as amended by this Act for the financial year 1958-59, a if on such adjustment the surcharge is in excess, such excess or if no such adjustment be made, su surcharge shall be refunded to the person concerned.

34. *Composition of tax for* [1][*the years* 1957-58, 1958-59, 1959-60 *and* 1960-61].—(1) Notwit standing anything contained in this Act, any person liable to pay agricultural income-tax under t [illegible]ial Act as amended by this Act in respect of any agricultural income derived from any la ther than the land used for growing tea, coffee, rubber, cinchona or cardamom during the peri twelve months ending on the 31st day of March 1958 [2][or on the 31st day of March, 1959], [3][on the 31st day of March, 1960] [4][or on the 31st day of March 1961] may apply to the prescrib officer for permission to compound such agricultural income-tax, and to pay in lieu thereof a lum sum at the rate or rates specified below :—

Extent	*Rate per standard acre* Rs.	nP.
(1) On the first $12\frac{1}{2}$ standard acres . .	*Nil*	
(2) On the next $7\frac{1}{2}$ standard acres . .	4	50
(3) On the next 10 standard acres . .	7	50
(4) On the next 10 standard acres . .	10	00
(5) On the next 10 standard acres . .	15	00
(6) On the next 50 standard acres . .	17	50
(7) On the next 50 standard acres . .	20	00
(8) On the balance of standard acres .	25	00

Provided that in the case of every company, the lump sum so payable shall be charged at th maximum rate on the whole of the total extent of the land held by that person.

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1. Substituted by Act 10 of 1961.
2. Inserted by Madras Act 16 of 1959
3. Inserted by Madras Act 4 of 1960.
4. Inserted by Madras Act 10 of 1961.

(2) The Government may make rules as to the circumstances under which, and the manner in which, remission may be granted to persons permitted to compound the agricultural income-tax under sub-section (1).

(3) The provisions of sections 35 and 36 of the principal Act shall, so far as may be, apply in relation to the composition of Agricultural income-tax under this section, as they apply in relation to the assessment of agricultural income-tax under the principal Act

* * * * * *

Provisions of the Madras Agricultural Income Tax (Extension to Added Territory) Act, 1961 (Madras Act 11 of 1961), not incorporated in the principal Act

1. *Short title and commencement* —(1) This Act may be called the Madras Agricultural Income Tax (Entension to Added Territory) Act, 1961.

(2) It shall come into force on the lst April, 1961.

2. *Definitions.—In this Act, unless the context otherwise requires—*

(a) added territory means the territory transferred to the State of Madras by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959),

(b) existing law means any law, ordinance, proclamation, regulation, order, by-law or rurle passed or made before lst April 1961 by Parliament, or by any Legislative, authority or person having power to make such law, Ordinance, Proclamation, regulation, order, by law or rule

* * * * * * *

[illegible] -The principal Act, as in force, imme- [illegible] Kanyakumari district and Shenkottah [illegible] eby extended to and shall be in force,

[illegible] s in force in the [illegible] nding law is in [illegible] Boundaries) Act, [illegible] rresponding law [illegible] law relates to [illegible]

8. *Savings.*—(1) The repeal by section 7 of any corresponding law shall not affect—

(a) the previous operation of any such law or anything done or duly suffered thereunder, or

(b) any right, previlege, obligation or liability acquired, accrued or incurred under any such law, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such laws,

[illegible] ght, previlege, obli [illegible] such investigation, [illegible] any such penalty [illegible] d.

(2) Subject to the provision of sub-section (1), anything done or any action taken including any [illegible] pal Act

9 *Construction of references to laws not in force in the added territory* —(1) Any reference in the Principay act to a law which is not in force in the added territory shall, in relation to that territory, be constructed as a reference to the corresponding law, if any, in force in that territory.

(2) Any reference in any existing law which continues to be in force in the added territory after the 1st April 1961 to any law repealed by section 7 shall, in relation to that territory be construed as a reference to the principal Act.

10. *Construction of references to authorities where new authorities have been c* [illegible] by whatever form of words, in any existing law to any authority competen[illegible] of that law to exercise any powers or discharge any functions in the [illegible] corresponding new authority has been constituted by or under the [illegible] the added territory, have effect as if it were a reference to that new a[illegible]

11. *Powers of courts and other authorities for purposes of facilitating application of the principal Act.*—For the purpose of facilitating the application in the added territory of the principal Act, any court or other authority may construe the said principal Act with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority.

12. *Repeal of Andhra Pradesh Act XX of* 1957.—The Andhra Pradesh Land Revenue (Surcharge) Act, 1957 (Andhra Pradesh Act XX of 1957), as in force in the added territory is hereby repealed:

Provided that such repeal shall not affect the previous operation of the said Act or anything already done or suffered or any right, title or obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof.

13. *Adjustment of surcharge under Andhra Pradesh Act XX of* 1957.—Any surcharge on the land revenue collected from any person under the Andhra Pradesh Land Revenue (Surcharge) Act, 1957 (Andhra Pradesh Act XX of 1957), for the fasli year 1960-61 shall be adjusted towards the agricultural income tax due from such person under the principal Act as extended by this Act for the financial year 1961-62, and if on such adjustment the surcharge is in excess, such excess, or if no such adjustment be made, such surcharge, shall be refunded to the person concerned.

14. *Composition of tax for the year* 1960-61. —(1) Notwithstanding anything contained in the principal Act as extended by this Act, any person liable to pay agricultural income-tax under that Act in respect of any agricultural income derived from any land in the added territory other than the land used for growing tea, coffee, rubber, cinchona or cardamom, during the period of twelve months ending on the 31st Day of March 1961, may apply to the prescribed officer for permission to compound such agricultural income tax, and to pay in lieu thereof a lump sum at the rate or rates specified below:—

Extent	*Rate per standard acre*
(1) On the first 12½ standard acres.	*Nil*
(2) On the next 7½ standard acres	4.50
(3) On the next 10 standard acres	7.50
(4) On the next 10 standard acres	10.00
(5) On the next 10 standard acres	15.00
(6) On the next 50 standard acres	17.50
(7) On the next 50 standard acres	20.00
(8) On the balance of standard acres	25.00

Provided that in the case of every company, the lump sum so payable shall be charged at the maximum rate on the whole of the total extent of the land held by that person.

(2) The Government may make rules as to the circumstances under which, and the manner in which, remission may be granted to person permitted to compound the agricultural income-tax under sub-section (1).

(3) The provisions of sub-sections 35 and 36 of the principal Act as extended by this Act shall so far as may be, apply in relation to the composition of agricultural income-tax under this section as they apply in relation to the assessment of agricultural income tax under the said principal Act.

15. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act or of the principal Act as extended to the added territory by this Act, the State Government as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

Every order issued under sub-section (1) shall, as soon as possible after it is issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is re-placed on the next session, both Houses agree in making any modification in any such order or both Houses agree that the order should not be issued, the order shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order

[1][THE SCHEDULE]

PART I

(*S e* section 3)

Rates of Agricultural Income-tax

1	On the first Rs 3,600 of total agricultural income	*Nil*
2	On the next Rs 1 400 of total agricultural income	Five naye paise in the rupee
3	On the next Rs 5 000 of total agricultural income	Fifteen naye paise in the rupee
4.	On the next Rs 5 000 of total agricultural income	Twenty naye paise in the rupee
5	On the next Rs 5 000 of total agricultural income	Twenty five naye paise in the rupee
6	On the next Rs 5 000 of total agricultural income	Thirty naye paise in the rupee.
*7	On the balance of total agricultural income	Forty five naye paise in the rupee

Provided that in the case of evey company, agricultural income tax shall be charged at the maximum rate on the whole of the total agricultural income

PART II

(*See* section 65)

	Extent	*Rate per standard acre* Rs	nP
1	On the first 12½ standard acres	*Nil*	
2	On the next 7½ standard acres	4	50
3	On the next 10 standard acres	7	50
4.	On the next 10 standard acres	10	00
5	On the next 10 standard a res	15	00

This schedule was substituted for the original schedule as amen by section 3 of the Madras Plantations Agricultural Income-tax (Amendment) Act XXXV of 1956) and section 2 of the Madras Plantations A (Amendment) Act, 1957 (Madras Act IX of 1957) by section tions Agricultural Income tax (Amendment) Act, 1958 (

THE MYSORE AGRICULTURAL INCOME-TAX ACT, 1957

[MYSORE ACT NO. 22 OF 1957]

An Act to consolidate and amend the laws providing for the levy of a tax on agricultural income from lands on which commercial crops are raised in the State of Mysore

WHEREAS it is expedient to consolidate and amend the laws providing for the levy of a tax on agricultural income from lands used for growing commercial crops in the State of Mysore ;

BE it enacted by the Mysore State Legislature in the Eighth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Agricultural Income-Tax Act, 1957.

(2) It extends to the whole of the State of Mysore.

(3) This section shall come into force at once and the remaining sections of this Act shall come into force on such date as the State Government may by notification in the official Gazette appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires—

(*a*) "agricultural income" means—

(1) any rent or revenue derived from land which is used for growing all or any of the commercial crops and is either assessed to land revenue in the State or subject to a local rate assessed and collected by officers of the State Government as such ;

(2) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in paragraph (ii) ;

(3) any income derived from any building owned and occupied by the receiver of the rent or

revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-clause (2) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land requires as a dwelling house or as a store-house or other out-building ,

Explanation —Income derived from any building means the receipts by way of rent from the building or portion thereof let out for rent

(*b*) "agricultural income-tax" means the tax payable under this Act ,

(*c*) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under section 17 ,

(*d*) "assessee" means a person by whom agricultural income-tax is payable ,

(*e*) "commercial crop" means any plantation crop, areca chillies, coconut, coriander, cotton, ganja, garlic, ginger, grapes, groundnut, mango, mulberry, onion, plantain (irrigated), potato, sesamum (til), sugarcane, tobacco or turmeric ,

Explanation —Commercial crop shall not include plantain, when grown on land on which areca or coconut is grown as a main crop

(*f*) "Commissioner" means a person appointed to be the Commissioner of Agricultural Income-tax under section 17 ,

(*g*) "company" means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956) and includes any foreign association, whether incorporated or not, which the State Government may, by general or special order, declare to be a company for the purposes of this Act ,

(*h*) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Agricultural Income-tax under section 17 ,

(*i*) "dividend" includes—

(i) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of assets of the company ,

(*ii*) any distribution by a company of debentures or debenture stock to the extent to which the company possesses accumulated profits, whether capitalized or not ;

(*iii*) any distribution made to the shareholders of a company out of accumulated profits, of the company on the liquidation of the company :

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included ; and

(*iv*) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits whether such accumulated profits have been capitalized or not :

Provided that "dividend" does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (iii) or (iv) ;

Explanation.—The words "accumulated profits" wherever they occur in this clause shall not include "capital profit" ;

(*j*) "earned agricultural income" means any agricultural income derived from personal cultivation of land, by an assessee, who is an individual, Hindu undivided family, unregistered firm or other association of persons not being a company or registered firm and includes any such agricultural income which, though it is the agricultural income of another person is included in the assessee's agricultural income under the provisions of this Act, but does not include any such agricultural income which is exempt from tax under section 12 :

Provided that in the case of a registered firm or a firm treated as registered under clause (*b*) of sub-section (5) of section 19, the share of income of such partners as are actively engaged in the management or cultivation of lands of the firm from which the agricultural income is derived, shall be considered as "earned agricultural income" in the hands of such persons.

Explanation.—(1) Land shall be deemed to be cultivated personally, if it is cultivated on one's own account,—

(*i*) by one's own labour, or by servants on wages payable in cash or kind but not by way of a

share in crops under one's personal supervision or the personal supervision of any member of one's family, or

(ii) by the labour of any member of one's family, or by hired labour under one's personal supervision or the personal supervision of any member of one's family

(2) Personal supervision means supervision under one's immediate presence or the immediate presence of any member of his family

(3) In the case of a Hindu undivided family, land shall be deemed to have been cultivated personally if it is cultivated by any member of such family ,

(*k*) "financial year" means the year beginning on the 1st April and ending on the 31st March next following ,

Central Act IX of 1932

(*l*) "firm", "partner" and "partnership" have the same meanings, respectively, as in the Indian Partnership Act, 1932 but the expression "partner" shall include any person who being a minor has been admitted to the benefits of partnership ,

(*m*) "Hindu undivided family' includes a family governed by—

(i) the Coorg customary law or usage , or

Madras Act XXI of 1933

(ii) the Madras Nambudri Act, 1932 ,

(*n*) "Landlord" means any individual who receives rent for land either in cash or kind from a tenant ,

Madras Act XXII of 1933
Madras Act XVII of 1939

(*o*) "Marumakkattayam tarwad or tavazhi" means a tarwad or tavazhi governed by the Madras Marumakkattayam Act, 1932, or the Mapilla Marumakkattayam Act, 1939, and in the case of tavazhi possessing separate properties, the provisions of this Act shall apply as if the tavazhi were a tarwad ,

(*p*) "person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognized by law, and includes an undivided Hindu Mitakshara family, an Aliyasanthana family or branch, a Marumak-tayam tarwad or a tavazhi possessing separate erties, or a Nambudri or other family to h the rule of impartibility applies, a firm or a any, an association of individuals, whether orated or not, and any institution capable ding property ,

(*ii*) any distribution by a company of debentures or debenture stock to the extent to which the company possesses accumulated profits, whether capitalized or not ;

(*iii*) any distribution made to the shareholders of a company out of accumulated profits, of the company on the liquidation of the company :

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included ; and

(*iv*) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits whether such accumulated profits have been capitalized or not :

Provided that "dividend" does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (iii) or (iv) ;

Explanation.—The words "accumulated profits" wherever they occur in this clause shall not include "capital profit" ;

(*j*) "earned agricultural income" means any agricultural income derived from personal cultivation of land, by an assessee, who is an individual, Hindu undivided family, unregistered firm or other association of persons not being a company or registered firm and includes any such agricultural income which, though it is the agricultural income of another person is included in the assessee's agricultural income under the provisions of this Act, but does not include any such agricultural income which is exempt from tax under section 12 :

Provided that in the case of a registered firm or a firm treated as registered under clause (*b*) of sub-section (5) of section 19, the share of income of such partners as are actively engaged in the management or cultivation of lands of the firm from which the agricultural income is derived, shall be considered as "earned agricultural income" in the hands of such persons.

Explanation.—(1) Land shall be deemed to be cultivated personally, if it is cultivated on one's own account,—

(*i*) by one's own labour, or by servants on wages payable in cash or kind but not by way of a

share in crops under one's personal supervision or the personal supervision of any member of one's family, or

(ii) by the labour of any member of one's family, or by hired labour under one's personal supervision or the personal supervision of any member of one's family

(2) Personal supervision means supervision under one's immediate presence or the immediate presence of any member of his family

(3) In the case of a Hindu undivided family, land shall be deemed to have been cultivated personally if it is cultivated by any member of such family,

(*k*) "financial year" means the year beginning on the 1st April and ending on the 31st March next following,

Central Act IX of 1932

(*l*) "firm", "partner" and "partnership" have the same meanings, respectively, as in the Indian Partnership Act, 1932 but the expression "partner" shall include any person who being a minor has been admitted to the benefits of partnership,

(*m*) "Hindu undivided family" includes a family governed by—

(i) the Coorg customary law or usage, or

Madras Act XXI of 1933

(ii) the Madras Nambudri Act, 1932,

(*n*) "Landlord" means any individual who receives rent for land either in cash or kind from a tenant,

Madras Act XXII of 1933
Madras Act XVII of 1939.

(*o*) "Marumakkattayam tarwad or tavazhi" means a tarwad or tavazhi governed by the Madras Marumakkattayam Act, 1932, or the Mapilla Marumakkattayam Act, 1939, and in the case of tavazhi possessing separate properties, the provisions of this Act shall apply as if the tavazhi were a tarwad,

(*p*) "person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognized by law, and includes an undivided Hindu Mitakshara family, an Aliyasanthana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties, or a Nambudri or other family to which the rule of impartibility applies, a firm or a company, an association of [illegible] wheth[illegible] incorporated or not, and any [illegible] of holding property;

(*q*) "plantation crop" means cardamom, coffee, linaloe, orange, pepper, rubber or tea ;

Explanation.—Plantation crop shall not include cardamom or pepper, when grown on land on which areca is grown as the main crop.

(*r*) "prescribed" means prescribed by rules made under this Act ;

(*s*) "previous year" means—

(*i*) these twelve months ending on the 31st day of March preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made upto a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have been so made up :

Provided that, if the option has once been exercised by an assessee, he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Agricultural Income-tax Officer and upon such conditions as he may think fit ; or

(*ii*) such period as may be determined by the Commissioner in the particular case of any person or class of persons ;

(*t*) "principal officer" used with reference to any company or association means—

(*i*) the Secretary, treasurer, manager or agent of the company or association, or

(*ii*) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof ;

(*u*) "registered firm" means a firm registered under the provisions of section 29 ;

(*v*) "State" means the State of Mysore ;

(*w*) "total agricultural income" means the aggregate of all agricultural income derived by a person from land situated in the State of Mysore whether received by him within or without the State computed in accordance with the provisions of section 5 and includes all income of the description specified in section 11 and all receipts of the description specified in clauses (*a*), (*c*) and (*d*) of section 12 and any sum which is exempt from tax under clause (*e*) or clause (*g*) of section 12 or under section 13.

(2) The Mysore General Clauses Act, 1899 shall apply for the interpretation of this Act as it applies for the interpretation of a Mysore Act

Mysore Act II of 1899

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of Agricultural Income-tax.

3. (1) Agricultural Income tax at the rate or rates specified in part I of the Schedule to this Act shall be charged for each financial year commencing from the first April 1957 in accordance with and subject to the provisions of this Act, on the total agricultural income of the previous year of every person

(2) Where there is included in the total agricultural income of an assessee any income exempted from agricultural income-tax by or under the provisions of this Act, the agricultural income-tax payable by the assessee shall be an amount bearing to the total amount of the agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted, the same proportion as the unexempted portion of the total agricultural income bears to the total agricultural income

(3) In the case of persons holding property as tenants-in common and deriving agricultural income the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in-common

Application of the Act

4. Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the State of Mysore by any person whether resident in the State or not.

Computation of Agricultural Income

5. The agricultural income of a person shall be computed after making the following deductions, namely —

(a) any sums paid in the previous year on account of—

(i) land revenue, local rates and cesses and municipal taxes in respect of the land from which the agricultural income is derived , and

(ii) any excise duty or tax as may be prescribed in respect of the agricultural produce from such land ,

(b) any rent paid in the previous year to the landlord or superior landlord as the case may be, in respect of the land from which the agricultural income is derived ,

(c) any expenses incurred in the previous year on the maintenance of any irrigation or protective work constructed for the benefit of the land from which the agricultural income is derived ,

(*q*) "plantation crop" means cardamom, coffee, linaloe, orange, pepper, rubber or tea ;

Explanation.—Plantation crop shall not include cardamom or pepper, when grown on land on which areca is grown as the main crop.

(*r*) "prescribed" means prescribed by rules made under this Act ;

(*s*) "previous year" means—

(*i*) these twelve months ending on the 31st day of March preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made upto a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have been so made up :

Provided that, if the option has once been exercised by an assessee, he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Agricultural Income-tax Officer and upon such conditions as he may think fit ; or

(*ii*) such period as may be determined by the Commissioner in the particular case of any person or class of persons ;

(*t*) "principal officer" used with reference to any company or association means—

(*i*) the Secretary, treasurer, manager or agent of the company or association, or

(*ii*) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof ;

(*u*) "registered firm" means a firm registered under the provisions of section 29 ;

(*v*) "State" means the State of Mysore ;

(*w*) "total agricultural income" means the aggregate of all agricultural income derived by a person from land situated in the State of Mysore whether received by him within or without the State computed in accordance with the provisions of section 5 and includes all income of the description specified in section 11 and all receipts of the description specified in clauses (*a*), (*c*) and (*d*) of section 12 and any sum which is exempt from tax under clause (*e*) or clause (*g*) of section 12 or under section 13.

Mysore Act I of 1899 (2) The Mysore General Clauses Act, 1899 shall apply for the interpretation of this Act as it applies for the interpretation of a Mysore Act

CHAPTER II

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Charge of Agricultural Income-tax. 3. (1) Agricultural Income-tax at the rate or rates specified in part I of the Schedule to this Act shall be charged for each financial year commencing from the first April 1957 in accordance with and subject to the provisions of this Act, on the total agricultural income of the previous year of every person

(2) Where there is included in the total agricultural income of an assessee any income exempted from agricultural income-tax by or under the provisions of this Act, the agricultural income-tax payable by the assessee shall be an amount bearing to the total amount of the agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted, the same proportion as the unexempted portion of the total agricultural income bears to the total agricultural income

(3) In the case of persons holding property as tenants-in common and deriving agricultural income the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in common

Application of the Act 4. Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the State of Mysore by any person whether resident in the State or not

Computation of Agricultural Income 5. The agricultural income of a person shall be computed after making the following deductions, namely —

(a) any sums paid in the previous year on account of—

(i) land revenue, local rates and cesses and municipal taxes in respect of the land from which the agricultural income is derived, and

(ii) any excise duty or tax as may be prescribed in respect of the agricultural produce from such land,

(b) any rent paid in the previous year to the landlord or superior landlord as the case may be, in respect of the land from which the agricultural income is derived,

(c) any expenses incurred in the previous year on the maintenance of any irrigation or protective work constructed for the benefit of the land from which the agricultural income is derived,

(*d*) any expenses incurred in the previous year, on repairs, in respect of any capital asset which was purchased or constructed for the benefit of the land from which the agricultural income is derived ;

(*e*) in respect of depreciation of building, machinery, plant, fencing materials, hose pipes and furniture which are the property of the assessee and which are required for the purpose of deriving the agricultural income, a sum equivalent to such percentage on the written down value thereof as may in any case or class of cases be prescribed and where the buildings have been newly erected, or the machinery or plant being new has been installed, a further sum subject to such conditions as may be prescribed :

Provided that—

(1) the prescribed particulars have been duly furnished ;

(2) where full effect cannot be given to any such allowance in any year owing to there being no agricultural income chargeable for that year, or owing to the agricultural income chargeable being less than the allowance, then subject to the provisions of the second proviso to section 15, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance or depreciation for the following year and deemed to be part of that allowane, or if there is no such allowance for that year, be deemed to be the allowance for the next year and so on for succeeding years; and

(3) the aggregate of all such allowances made under this Act shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture, as the case may be ;

(*f*) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold for its scrap value :

Provided that such amount is actually written off in the books of the assessee :

Provided further that where the amount for which any such building, machinery or plant is sold, whether during the continuance of the agricultural operations or after the cessation thereof, exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place :

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the Explanation to this section, shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of deriving the agricultural income ,

(*g*) any interest paid in the previous year on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land from which the agricultural income is derived ,

(*h*) where the land from which the agricultural income is derived is subject to a mortgage or other capital charge, any interest paid in the previous year in respect of such mortgage or charge ,

(*i*) any interest paid in the previous year on any debt whether secured or not, incurred for the purpose of acquiring the land from which the agricultural income is derived

Provided that the interest allowable under clauses (*g*), (*h*) and (*i*) shall not exceed, in the case of a secured loan, seven and half per cent per annum simple interest, and in the case of an unsecured loan twelve per cent per annum simple interest ,

(*j*) any interest paid in the previous year on any amount borrowed and actually spent on the land on which the agricultural income is derived

Provided that the need for borrowing was *bona fide* having regard to the assets of the assessee at the time

Provided further that the interest allowed under [illegible] clause shall be the actual interest paid sub[illegible] to a maximum of twelve per cent per annum [illegible] the amount borrowed and spent on the [illegible],

(*k*) any expenditure (not being in the nature [illegible] expenditure) laid out or expended in [illegible] year wholly and exclusively for the [illegible] deriving the agricultural income ,

(*l*) such other deductions as may be pres[illegible] or in particular cases ;

(*m*) in the case of agricultural income [illegible] rent or revenue derived from land [illegible] sub-clause (1) of clause (*a*) of [illegible]

(*i*) any expenses actually in[illegible] year in the collection of [illegible]

(*ii*) any expenses incurred in [illegible] repairs in respect of [illegible] connection with the [illegible] respect of the land fr[illegible] income is derived ,

(n) in the case of agricultural income referred to in sub-clause (2) of clause (a) of section 2—

(i) the expenses other than capital expenditure incurred in the previous year of raising the crop from which the agricultural income is derived and of transporting such crop to market, including the maintenance of agricultural implements and cattle required for such cultivation and transport or both ;

(ii) the cost incurred in the previous year in the purchase or replacement of cattle or implements, which are necessary for cultivation, to such extent as may be prescribed, less the amount realised by sale of the cattle or implements replaced or their estimated value ;

(iii) any sum paid in the previous year in order to effect an insurance against loss or damage of crops or property from which the agricultural income is derived :

Provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purposes of this Act, and shall be liable to agricultural income-tax after deducting the portion thereof, if any, which has been assessed to income-tax under the Indian Income-tax Act, 1922 ; Cent XI o

(iv) any expenses incurred in the previous year on the maintenance of any capital asset if such maintenance is required for the purpose of deriving the agricultural income :

Provided that no deduction shall be made under this section if it has already been made in the assessment under the Indian Income-tax Act, 1922. Centr XI of

Explanation.—For the purpose of this section "plant" includes vehicles and scientific apparatus purchased for the purpose of deriving the agricultural income ; and "written down value" means—

(i) in the case of assets acquired in the previous year the actual cost to the assessee ; and

(ii) in the case of assets acquired before the previous year, the actual cost to the assessee less such sum as may be prescribed.

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6. Where agricultural income is derived from land situated partly within the State and partly without the State, agricultural income-tax shall be levied under this Act—

(i) where the portion of such income attributable to the lands situated within the State can be determined from the accounts maintained by the assessee, on the portion so determined ;

(ii) where the portion of the income so attributable cannot be determined by the method specified in clause (i) on such portion as may be determined in the prescribed manner

Method of accounting

7. Agricultural income shall be computed for the purpose of sections 5 and 6 in accordance with the method of accounting regularly employed by the assessee

Provided that, if no method of accounting has been regularly employed by the assessee, or if the method employed is such that, in the opinion of the Agricultural Income-tax Officer, the agricultural income cannot properly be deduced therefrom then the computation shall be made upon such basis and in such manner as he may determine

Provided further that in the case of coffee crop of an assessee the agricultural income therefrom may be computed on the basis of valuation on points declared by the Indian Coffee Board in respect of such crop

Assessment of agricultural income in regard to tea

8. In the case of cultivation and manufacture of tea, the agricultural income for the purposes of this Act shall be deemed to be that portion of the income from cultivation, manufacture and sale computed under the Indian Income tax Act, 1922 (Central Act XI of 1922) which is excluded from taxation under that Act as being agricultural income after deducting from the said portion any allowance authorized by this Act in so far as the same has not been allowed in the computation of the income for the purposes of the Indian Income-tax Act, 1922 (Central Act XI of 1922)

Assessment of a Hindu undivided family

9. (1) The total agricultural income of a Hindu undivided family assshated as the income of one individual and

(2) In the case of a Marumakkattayam tarwad or Aliyasanthana family, the total agricultural income of the tarwad or family shall be assessed on the karnavan of the tarwad or the manager of the family and treated as the income of one individual for the purpose of levy of agricultural income-tax

Provided that in cases where properties have been set apart for each tavazhi in the tarwad or branch of the family for maintenance under any family arrangement the karnavan, manager or other person in management of the tavazhi or branch shall be assessed separately

(3) In the case of a family governed by the Coorg Customary Law, or a family owning jama properties, where a division for maintenance has taken place tax shall be levied on the income each share of the family.

Liability of Court of Wards Ad-

10. (1) (a) In the case of agricultural income taxable under this Act, which the Court of Wards, Administrator-General or Official Trustee or any receiver, administrator, executor, trustee, guardian or manager appo under any law or by an order of Court or

agreement, is entitled to receive on behalf of any person, the tax shall be levied upon and recoverable from the Court of Wards, Administrator-General, official trustee, or from such receiver, administrator, executor, trustee, guardian or manager, as the case may be, in the like manner and to the same amount as it would be leviable upon and recoverable from the person on whose behalf such agricultural income is receivable and all the provisions of this Act shall apply accordingly.

(*b*) Where the agricultural income received on behalf of any person by the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager referred to in clause (*a*) is part only of the total agricultural income of such person, the agricultural income-tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax as so assessed shall be levied upon and recoverable from the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and from such person rateably according to the portion of the total agricultural income of such person received by the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and the portion received by such person.

(*c*) Nothing contained in this sub-section shall prevent either the direct assessment of the person on whose behalf the agricultural income is receivable or the recovery from such person of the tax payable in respect of such income.

(2) (*a*) Save as provided in sub-section (1), if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of others or wholly for the benefit of others, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such person had held the land exclusively for his own benefit.

(*b*) Any person holding such land shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive, to deduct the amount of agricultural income-tax at the rate at which such income is or will be assessed under clause (*a*).

Income from settlement, disposition, etc.

11. (1) All agricultural income arising to any person by virtue of a settlement or disposition, whether revocable or not, and whether effected before or after the commencement of this Act, from assets remaining out of the property of the settlor or disponer shall be deemed to be the agricultural income of the settlor or disponer, and all agricultural income arising to any person by virtue of a revocable transfer of assets shall be deemed to be the agricultural income of the transferor:

Provided that, for the purposes of this sub-section, a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the re-transfer directly

or indirectly of the agricultural income or assets to the settlor, disponer or transferor or in any way gives the settlor, disponer or transferor a right to re assume power directly or indirectly over the agricultural income or assets

Provided further that the expression "settlement or disposition" shall, for the purposes of this sub-section, include any disposition trust, covenant agreement or arrangement and the expression "settlor or disponer" in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made

Provided also that this sub section shall not apply to any agricultural income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the life time of the person and from which agricultural income the settlor or disponer derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said agricultural income as and when the power to revoke arises to him

(2) In computing the total agricultural income of an individual, there shall be included—

(a) so much of the agricultural income of a wife or minor child of an individual as arises directly or indirectly—

(i) from the membership of the wife in a firm of which her husband is a partner

(ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner ,

(iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart ,

(iv) from assets transferred directly or indirectly to the minor child not being a married daughter by such individual otherwise than for adequate consideration ,

(b) so much of the agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both

12. Agricultural income tax shall not be payable on that part of the total agricultural income of a person which is— Exemption from assessment of income tax.

(a) any sum which he receives out of the agricultural income of a Hindu undivided family, Marumakkattayam tarwad or Al[illegible] receives such sum as a member or tarwad and tax under th[illegible] on the agricultural income

(*b*) any dividend which he receives as a shareholder out of the agricultural income of a company which has certified that it has paid or will pay the tax under this Act in respect of the agricultural income of such company ;

(*c*) any sum which he receives as his share out of the agricultural income of a firm or association of persons, if the tax under this Act has been levied on the agricultural income of such firm or association ;

(*d*) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 10 ;

(*e*) any sum paid by such person—

(*i*) to effect an insurance on the life of such person or on the life of a wife or husband of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband of such person ;

(*ii*) where the assessee is a member of a Hindu undivided family, Marumakattayam tarwad or Aliyasanthana family, to effect an insurance on the life of any member of such family :

Provided that the aggregate of any sums exempted under this clause shall not exceed one-sixth of the total agricultural income of the assessee :

Provided further that nothing contained in this clause shall be deemed to entitle a person who is assessed to income-tax under the Indian Income-tax Act, 1922, to claim any deduction in respect of any sum referred to in this clause if it was exempted under section 15 of the said Act ;

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(*f*) any sum derived from land held under a trust or other legal obligation wholly or partly for public purposes of a charitable or religious nature and actually spent for the said purposes ;

(*g*) any sums paid by such person as donations to any institution or fund which is established for charitable purposes and is approved by the State Government for the purpose of this section :

Provided that each such sum is not less than two hundred and fifty rupees.

Explanation.—In this section, charitable purpose, includes relief of the poor, education, medical relief and advancement of any other object of general public utility.

Exemption of portion of earned agricultural income.

13. The tax shall not be payable by an assessee in respect of such portion, if any, of the earned agricultural income included in the total agricultural income as does not exceed ten per cent of the total agricultural income chargeable to

agricultural income tax under section 3 and for the purposes of determining the rate of agricultural income tax payable by an assessee the total agricultural income shall be deemed to be the total agricultural income reduced by the said portion

Provided that the portion of earned agricultural income exempt from tax under this section shall not exceed—

(*a*) in the case of a Hindu undivided family, four thousand rupees, and

(*b*) in any other case, two thousand rupees.

14 (1) In the case of any person residing outside the State his total agricultural income shall be chargeable to agricultural income tax either in his name or in the name of his agent and in the latter case such agent shall be deemed to be, for all the purposes of this Act the assessee in respect of such tax Non-residents.

(2) Any person employed by or on behalf of a person residing out of the State, or through whom the non resident person is in receipt of any agricultural income upon whom the Agricultural Income tax Officer has caused a notice to be served of his intention of treating him as the agent of the non resident person shall, for all the purposes of this Act, be deemed to be such agent

Provided that no person shall be deemed to be the agent of a non resident person, unless he has had an opportunity of being heard by the Agricultural Income tax Officer as to his liability

(3) Where a notice under this Act has to be served on a non resident person, it shall be served in the prescribed manner

15 Where any person sustains a loss in agricultural income in any year, the loss shall be carried forward to the following year and set off against the agricultural income for that year and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year and so on, but no loss shall be carried forward for more than six years Carrying forward of loss.

Provided that, in the case of loss sustained before the commencement of this Act, this section shall apply only to such loss as was sustained in the previous year immediately before such commencement

Provided further that where depreciation allowance is also, to be carried forward under proviso (2) to clause (e) of section 5, effect shall first be given to the provisions of this section

16 The principal Officer of every company shall, at the time of the distribution of dividends, furnish to every person Certificate in respect
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particulars as may be prescribed

CHAPTER III

INCOME-TAX AUTHORITIES

Income-tax Authorities.

17. (1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely:—

(*a*) Commissioner of Agricultural Income-tax;

(*b*) Deputy Commissioner of Agricultural Income-tax;

(*c*) Agricultural Income-tax Officers.

(2) The authorities specified in sub-section (1) shall be appointed by the State Government and shall exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas as the State Government may, by notification in the official Gazette, direct.

(3) The State Government may, by notification in the official Gazette, empower any officers other than the authorities specified in sub-section (1) to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as may be specified in the notification.

(4) The authorities specified in sub-section (1) and the officers specified in sub-section (3) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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(5) All Officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Commissioner:

Provided that no such order, direction or instruction shall be given so as to interfere with the discretion of any appellate authority in the exercise of its appellate functions.

CHAPTER IV

RETURN OF INCOME, ASSESSMENT, ETC.

Return of income.

18. (1) Every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax shall furnish to the Agricultural Income-tax Officer so as to reach him before the 1st June every year a return in the prescribed form and verified in the prescribed manner, setting forth his total agricultural income during the previous year.

(2) In the case of any person whose total agricultural income is, in the opinion of the Agricultural Income-tax Officer, of such amount as to render such person liable to payment of agricultural income-tax for any financial year, he may serve in that year a notice in the prescribed form requiring such person to furnish within such period not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total agricultural income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2) or, having furnished a return under any of those sub-sections discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made

(4) The Agricultural Income tax Officer may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as such officer may require

Provided that such officer shall not require the production of any accounts relating to a period more than three years prior to the previous year

19 (1) If the Agricultural Income tax Officer is satisfied that a return made under section 18 is correct and complete, he shall, by order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such return — Assessment of income

(2) If the Agricultural Income tax Officer is not satisfied without requiring the presence of the person who made the return or the production of evidence that the return is correct and complete, he shall serve on the person who made the return a notice requiring him on the date specified therein, either to attend at the office of the Agricultural Income tax Officer or to produce or to cause to be produced, any evidence on which such person may rely in support of the return

(3) On the day specified in the notice under sub section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after considering such evidence as such person may produce and such other evidence as that officer may require on specified points, shall by an order in writing assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such assessment.

(4) If any person fails to make a return under sub section (1) or sub-section (2) of section 18, as the case may be, or fails to comply with all the terms of a notice issued under sub section (4) of that section or under sub-section (2) of this section, the Agricultural Income tax Officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment, and in the case of a firm, may refuse to register it or may cancel its registration if it is already re[gistered]

[Pro]vided that the registration of a firm sh[all not be cancelled] until fourteen days have elapsed fro[m ...] by the Agricultural Income tax O[fficer ...] [stati]ng his intention to cancel its re[gistration ...]

(5) Notwithstanding anything contained in the foregoing sub-section, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be—

(*a*) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed, and the sum payable by him on the basis of such assessment shall be determined :

Provided that if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 15 :

Provided further that, when any of such partners is a person not resident in the State, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm ; and

(*b*) in the case of an unregistered firm, the Agricultural Income-tax Officer may, instead of determining the sum payable by the firm itself, proceed in the manner laid down in clause (*a*) as applicable to a registered firm, if in his opinion, the aggregate amount of the tax payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm.

(6) Whenever the Agricultural Income-tax Officer makes a determination in accordance with the provisions of sub-section (5) he shall notify to the firm by an order in writing the amount of the total income on which the determination has been based and the apportionment thereof between the several partners.

(7) When in the course of the assessment of the total agricultural income of the assessee it is found that a loss has been sustained which he is entitled to have set off under section 15, the Agricultural Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him.

Power to make provisional assessment in advance of regular assessment.

20. (1) The Agricultural Income-tax Officer may, at any time after the receipt of a return made under section 18, proceed to make in a summary manner, a provisional assessment of the tax yayable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, aster gving due effect to (i) the allowance referred to in paraghaph (2) of the proviso to clause (c) of section 5, nda (ii) any loss carried forward under section 15.

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received, although the return of the partner himself may not have been received

(3) There shall be no right of appeal against a provisional assessment made under sub section (1)

(4) After a regular assessment has been made under section 19, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee

(5) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits, of any issue which may arise in the course of the regular assessment under section 19.

Cancellation of assessment in certain cases.

21. Where an assessee within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Agricultural Income-tax Officer that he was prevented by sufficient cause from making the return required by section 18 or that he did not receive the notice issued under sub section (2) or sub section (4) of that section or sub section (2) of section 19 or that he had not a reasonable opportunity to comply, or prevented by sufficient cause from complying with the terms of any such notice, the Agricultural Income tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 19

Penalty for concealment of income

22. (1) If the Agricultural Income tax Officer or the Deputy Commissioner or the Commissioner is satisfied that any person —

(*a*) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish under sub section (1) or sub-section (2) of section 18 , or

(*b*) has without reasonable cause failed to furnish such return within the time allowed and in the manner required by sub-section (1) of section 18 or by a notice served under sub section (2) of that section , or

(*c*) has, without reasonable cause, failed to comply with a notice issued under sub-section (4) of section 18 or under sub-section (2) of section 19 , or

(*d*) has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income

he may direct that such person shall pay penalty, in addition to the amount income-tax, if any, payable by exceeding that amount ,

Provided that—

(*a*) no penalty shall be imposed under this sub-section upon a person who has failed to furnish a return under sub-section (1) of section 18, if he proves that he has no income liable to tax ;

(*b*) where a person has failed to comply with a notice under sub-section (2) or sub-section (4) of section 18 or under sub-section (2) of section 19 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall not exceed ten rupees ;

(*c*) no penalty shall be imposed under this sub-section upon any person assessable as the agent of any person not resident in the State of Mysore for failure to furnish the return required under section 18 unless a notice under sub-section (2) thereof or under section 35 has been served on him.

(2) No order under sub-section (1) shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under sub-section (1).

(4) If the Commissioner or Deputy Commissioner makes an order under sub-section (1) he shall forthwith send a copy of the same to the Agricultural Income-tax Officer concerned.

Power to assess individual members of certain associations.

23. (1) Where the Agricultural Income-tax Officer is satisfied that any association of individuals other than a Hindu undivided family, and Aliyasanthana family or branch, Marumakkattayam tarwad or tavazhi or a company is under the control of one member thereof, and that such association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof he may, with the previous approval of the Deputy Commissioner of Agricultural Income-tax, pass an order that the sum payable as agricultural income-tax by the association shall not be determined, and thereupon the share of each member in the agricultural income of the association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation.—(1) A member of an association who owns the whole or the major portion of the capital of the association shall not by reason only of that fact be deemed to control the firm or association.

(2) The Deputy Commissioner of Agricultural Income-tax shall not give his approval to any order proposed to be passed by the Agricultural Income-tax Officer, under this section until he has given the firm or association concerned an opportunity of being heard.

(3) Where any member of an association of individuals makes default in the payment of tax on his share of income which has been included in his total agricultural income under the provisions of sub section (1), such tax may be recovered from the association

(4) Where agricultural income tax is recoverable from an association under this section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter V

Tax of deceased person payable by representative

24. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge of the agricultural income tax assessed as payable by such person or any agricultural income-tax which would have been payable by him under this Act if he had not died

(2) Where a person dies before the 1st June in any year or before he is served with a notice under sub section (2) of section 18 or under section 36, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub section (2) of section 18 or under section 36, as the case may be, comply therewith, and the agricultural Income tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee

(3) Where a person dies without having furnished a return which he has been required to furnish under Section 18, or having furnished a return which the Agricultural Income-tax Officer has reason to believe to be incorrect or incomplete such Officer may make an assessment of the total agricultural income of such person and determine the agricultural income tax payable by him on the basis of such assessment and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived require from the executor, administrator or other legal represen[illegible] of the deceased person any accounts, documents, or [illegible] evidence which he might under section 18 or section [illegible] have required from the deceased person

25. Where a person in receipt of agricultural [illegible] for any previous year from any land in the State [illegible] to have transferred his interest in such land to [illegible] person, the transferor and the transferee shall [illegible] assessed in respect of his actual share, if [illegible] agricultural income for the previous year

Provided that where the transferor can[illegible] assessment of such agricultural income of t[illegible] in which the transfer took place up to the [illegible] and for the year preceding that year shall [illegible] transferee in the like manner and to th[illegible]

would have been made on the transferor or where the tax in respect of the assessment made for any or all of such years assessed on the transferor cannot be recovered from him, it shall be payable by and recoverable from the transferee, and the transferee shall be entitled to recover from the transferor the amount so paid by him.

Assessment in case of discontinued company, firm or association.

26. (1) Where agricultural income is received by a company, firm or association of persons and the business through which such income is received is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance, in addition to the assessment, if any, made on the basis of the agricultural income received in the previous year.

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of the such discontinuance within thirty days thereof and where any person fails to give the notice required by this sub-section, such officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or association of persons up to the date of the discontinuance of the business.

(3) Where an assessment is to be made under sub-section (1), the Agricultural Income-tax Officer may serve on the person whose agricultural income is to be assessed or, in the case of a firm on any person who was a member of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 18 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

Liability in case of discontinued firm or association.

27. Where agricultural income is received by a firm or association of persons and the business of such firm or association is discontinued or such firm or association is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or member of such association shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association and all the provisions of this Act shall, so far as may be, apply to such assessment.

Change in constitution of a firm and succession to business.

28. (1) Where at the time of making an assessment under section 19, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted at the time of making the assessment.

If the agricultural income-tax cannot be recovered from the firm as so constituted, such tax shall be recoverable

from the persons who were members of the firm during the previous year

(2) Where a person carrying on any business in the course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year

Provided that, when the person succeeded in the business cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in the like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid

Procedure for registration of firms

29. (1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners for registration for the purposes of this Act.

(2) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed, and it shall be dealt with by the Agricultural Income tax Officer in such manner as may be prescribed.

Assessment after partition of a Hindu undivided family.

30. (1) Where at the time of making an assessment under section 19, it is claimed by or on behalf of any member of a Hindu Undivided Family, or branch, an Aliyasanthana family or a Marumakkattayam tarwad or tavazhi hitherto assessed as undivided that a partition or maintenance divi-

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as he may think fit, and if he is satisfied that there has been a partition or maintenance division of the property by metes and bounds among the various members or groups of members and separate enjoyment by them he shall record an order to that effect

Provided that no such order shall be recorded until notice of the inquiry has been served on all the adult members of the family, branch, tarwad or tavazhi entitled to the property as far as may be practicable or in such other manner as may be prescribed

(2) Where such an order has been passed, the A Income-tax Officer shall make an assessmen

agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such, as if no partition or maintenance division had taken place and each member or group of members shall, in addition to any agriculture income-tax for which he or it may be separately liable, and notwithstanding anything contained in clause (*a*) of section 12, be liable for a share of the tax on the income so assessed according to the portion of the family, branch, tarwad or tavazhi property allotted to him or it and the Agricultural Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 19 :

Provided that all the members and groups of members whose family, branch, tarwad or tavazhi property has been partitioned or divided for maintenance shall be liable jointly and severally for the tax on the total agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such up to the date of the partition.

(3) Where such an order has not been passed in respect of a Hindu family, an Aliyasanthana family or branch or a Marumakkattayam tarwad or tavazhi hitherto assessed as undivided, such family, branch, tarwad or tavazhi shall be deemed for the purpose of this Act to continue to be an undivided family branch, tarwad or tavazhi.

Notice of demand.

31. Where any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment.

32. (1) Any assessee objecting to the amount of income assessed or tax determined or loss computed under section 19 or the amount of tax determined under section 19 or denying his liability to be assessed under this Act or objecting to any order under any of the provisions of sections 22, 26, 30 and 42 made by the Agricultural Income-tax Officer may appeal to the Deputy Commissioner against the assessment or order :

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 19.

(2) The appeal shall be presented within a period of sixty days from the date of service of the order, but the appellate authority may admit an appeal presented after the expiration of the said period, if the authority is satisfied that the appellant had sufficient cause for not presenting it within the said period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The appellate authority shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make or cause to be made such further inquiry as it thinks fit.

(5) In disposing of an appeal, the appellate authority may—

(*a*) in the case of an order of assessment —

(i) confirm, reduce, enhance or annul the assessment,

(ii) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after such further inquiry as may be directed, or

(*b*) in the case of any other order, confirm, cancel or vary such order

Provided that no enhancement of an assessment or penalty shall be made under this section unless the appellant has had a reasonable opportunity

33. The provisions of the foregoing section shall, so far as may be, apply to any order of refusal of any refund admissible under this Act or the rules made thereunder — Appeal against order *of refusal to refund*

34. (1) Any assessee objecting to an order of the Agricultural Income tax Officer under section 23, or an order passed by the Deputy Commissioner under section 22 or under sub section (5) of section 32 enhancing his assessment or a penalty imposed upon him, may appeal to the Commissioner within thirty days of the date on which he was served with the notice of such orders — Appeals against orders of Deputy Commissioner

(2) The appeal shall be presented in the prescribed form and shall be verified in the prescribed manner

(3) The Commissioner shall after giving the appellant a reasonable opportunity of being heard, pass such orders thereon as he thinks fit

35. (1) The Commissioner may of his own motion or on application by an assessee call for the record of any proceeding under this Act which has been taken by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit — Revision by Commissioner

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard

Provided further that an order by the Commissioner declining to interfere shall not be deemed to be an order prejudicial to the assessee

(2) Any order passed by the Commissioner under subsection (1) shall be final subject to any reference that may be made to the High Court under section 55

36. If for any reason any agricultural income ch to tax under this Act has escaped assessment in any year or has been assessed at too low a rate, the

Income-tax Officer, may, in cases falling under sub-section (3) of section 40, at any time within five years and in any other case at any time within three years, of the end of that year serve on the person liable to pay the tax or in the case of a company on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 18 and may proceed to assess or re-assess such income and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be.

Rectification of mistake.

37. (1) The Commissioner or the Deputy Commissioner may at any time within three years from the date of any order passed by him on appeal or in the case of the Commissioner in revision under section 35 and the Agricultural Income-tax Officer may at any time within three years from the date of any assessment or refund order passed by him, of his own motion, rectify any mistake apparent from the record of the appeal, revision, assessment or refund, as the case may be, and shall within the like period, rectify any such mistake which has been brought to his notice by an assessee :

Provided that no such rectification shall be made having the effect of enhancing an assessment or reducing a refund unless the Commissioner, the Deputy Commissioner or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 31 and the provisions of this Act shall apply accordingly.

Power to take evidence on oath, etc.

38. The Commissioner, the Deputy Commissioner and the Agricultural Income-tax Officer shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely :— Central V of 19

(*a*) enforcing the attendance of any person and examining him on oath or affirmation ;

(*b*) compelling the production of documents ; and

(c) issuing commissions for the examination of witnesses, and any proceeding before the Commissioner, Deputy Commissioner or Agricultural Income-tax Officer shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code

Central Act XLV of 1860

Power to call for information.

39 The Agricultural Income tax Officer or the Deputy Commissioner may for the purposes of this Act—

(i) require any firm to furnish a return of the names of all the members of the firm, their addresses and such other particulars as may be required for the purposes of assessment ,

(ii) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses.

40. (1) If for the purpose of calculating or verifying the [illegible] agricultural income specified in a return under section [illegible] 18, the assessee produces before any Agricultural In[illegible] Authority any rent roll or other document [illegible] amount of rent due to him, he shall not be entitled [illegible] by suit or otherwise rent in respect of any tenure or holding included in his return at a rate higher than [illegible] in such rent roll or document in respect of [illegible] holding, unless the rent thereof has, since the [illegible] return, been lawfully enhanced

(2) Any person who has produced a [illegible] document referred to in sub section [illegible] year of producing such rent roll or do[illegible] Agricultural Income tax Officer to [illegible] therein and such officer may, if he is satisfied [illegible] been a *bona fide* mistake, pass an order [illegible] roll or document

(3) Where the Agricultural Income[illegible] an order under sub section [illegible] 36 any income escaping [illegible] incorrectness of the entry [illegible]

CHAPTER [illegible]

RECOVERY OF [illegible] AND PENALTIES

41. (1) Any amount [illegible] in a notice of [illegible] demand [illegible] under section [illegible], payable section [illegible] him the time, at the place and [illegible] in a notice or order or if a time [illegible] on or before the first day of [illegible] date of the service of the [illegible] failing so to pay shall be [illegible]

[illegible] assessee has [illegible]

in his discretion treat the assessee as not being in default as long as such appeal is undisposed off and if in any such case the Agricultural Income-tax Officer considers that the assessee should be held to be in default, he shall refer the matter to the authority to whom the appeal was presented for orders and shall treat the assessee as not being in default until the said authority passes orders to the contrary.

(2) If an assessee makes an application within the time mentioned in the notice of demand in section 31, for being allowed to pay the tax due, the Agricultural Income-tax Officer may in his discretion, by order in writing, allow the assessee to pay the tax due in instalments not exceeding four in number at such intervals as the said Officer may fix in his discretion or extend the time for the payment of the entire tax due for such reasonable period as he may fix, if the assessee undertakes in writing to pay interest at 6¼ per cent or as may be prescribed :

Provided that if as a result of an application made by the assessee, the Agricultural Income-tax Officer allows the assessee to pay the tax due in instalments, the assessee shall be deemed to have waived all his rights of appeal under this Act :

Provided further that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment, he shall be deemed to be a defaulter in respect of the total remaining amount of tax due.

Mode and time of recovery.

42. (1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding one-eighth of that amount shall be recovered from the assessee by way of penalty.

(2) For the purposes of sub-section (1), the Agricultural Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable.

(3) The Agricultural Income-tax Officer may forward to the Deputy Commissioner or Collector of the Revenue District a certificate under his signature specifying the amount of arrears due from an assessee and the said Deputy Commissioner, or Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified as if it were an arrear of land revenue :

Provided that, without prejudice to any other powers of the Deputy Commissioner or Collector of the Revenue District in this behalf, he shall, for the purpose of recovering the said amount have the powers which under the Code of Civil Procedure, 1908, a civil court has for the purpose of the recovery of an amount due under a decree.

Central V of 1908.

43 (1) Where any property of a Hindu undivided family, an Aliyasanthana family or branch, or a Marumakkattayam tarwad or tavazhi, is sold for the realisation of arrears of agricultural income tax, the right, title and interest of all the members of such family, branch, tarwad or tavazhi in the property shall pass to the purchaser

Right, title and interest in property sold for arrears of tax in certain cases

(2) Where any person has been assessed to agricultural income tax on the agricultural income derived from a land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the land so held by him may be attached and sold for the realisation of such arrears and on such sale, the right, title and interest of such person in the said land shall pass to the purchaser

44 Any sum imposed by way of penalty under the provisions of section 22, section 26 or section 42 shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax

Recovery of penalties

Chapter VI

REFUNDS

45 (1) If any person satisfies the Agricultural Income tax Officer that the amount of agricultural income tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which such person is properly chargeable under this Act, for that year, he shall be entitled to a refund of any such excess

Refunds

(2) The Deputy Commissioner in the exercise of his appellate powers the Commissioner in the exercise of his appellate or revisional powers if satisfied to the like effect, shall cause a refund to be made by the Agricultural Income tax Officer of any amount found to have been wrongly paid or paid in excess

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person such other person only shall be entitled to a refund under this section in respect of such income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act to entitle any person to any relief other than or greater than that relief

46 Refunds shall also be admissible under this Act in such cases, and to such extent as may be prescribed

Refunds admissible under the Rules

47. Where under any of the provisions of this Act, refund is found to be due to any
tax Officer, the Deputy C
as the case may be, may,

Power to set ... payable

set off the amount to be refunded, or any part of that amount against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

Power of representative of deceased person or persons disabled to make claim on his behalf.

48. Where through death, incapacity, bankruptcy liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 45, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

Limitation of claims for refund.

49. No claim to any refund of agricultural income-tax under this Chapter shall be allowed, unless it is made within three years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received or one year from the date on which the assessment is completed, which ever is later.

CHAPTER VII

OFFENCES AND PENALTIES

False statements in declaration.

50. If any person makes a statement in a verification mentioned in section 18 or sub-section (3) of section 32 or sub-section (2) of section 34 or in any application under section 67 which is false and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code, 1860. Centr XLV

Failure to furnish return to supply ...on.

51. If any person fails without reasonable cause or excuse—

(*a*) to furnish in due time and any of the returns specified in sub-section (1) or sub-section (2) of section 18 or in section 39 ; or

(*b*) to furnish a certificate required by section 16 ; or

(*c*) to grant inspection or allow copies to be taken in accordance with the provision of section 62 ; or

(*d*) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) of section 18, such accounts or documents as are referred to in the notice,

he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

Prosecution to be at the instance of the Deputy Commissioner.

52. (1) A person shall not be proceeded against for an offence under section 50 or section 51 except at the instance of the Deputy Commissioner.

(2) Before instituting proceedings against any person under sub-section (1), the Deputy Commissioner shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The Deputy Commissioner may either before or after the institution of proceedings compound any such offences

53 (1) All particulars contained in any statement made, D sclosure informat 1 by pul servant

this Act other than proceedings under this Chapter or in any record of an assessment proceedings or any proceeding relating to the recovery of a demand prepared for the purposes of this Act, shall be treated as confidential and notwithstanding anything contained in any law no court shall save as provided in this Act be entitled to require, any public servant to produce before it any such return, accounts, documents or record or any part of such record or to give evidence before it in respect thereof

(2) If a public servant discloses any particulars contained

also be liable to fine

(3) Nothing contained in this section shall apply to the disclosure—

Central Act XLV of 1860

(a) of any such particulars for the purposes of prosecution under the Indian Penal Code in respect of any such statement return accounts documents evidence, affidavit or depositions or for the purposes of a prosecution under this Act, or

(b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or

(c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

(d) of any such particulars to a Civil Court in any suit to which the State Government is a party which relates to any matter arising out of any proceeding under this Act, or

(e) of any such particulars to any officer appointed to audit agricultural income tax receipts or refunds, or

(f) of any such particulars relevant to any inquiry into the conduct of an official of the Agricultural Income tax Department to any officer or authority appointed or authorised to hold such inquiry, or

(g) of any such particulars relevant to any inquiry into a charge of misconduct in connection w proceedings under this Act against a legal p tioner or registered accountant, or

(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under any law relating to stamps, to impound an insufficiently stamped document ; or

(*i*) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it ; or

(*j*) of such facts to any authority exercising powers under any Act of the State Legislature imposing any tax or duty as may be necessary for enabling it duly to exercise such powers ; or

(*k*) of such particulars, to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to agricultural income-tax in any particular year or years where under the provisions of any law for the time being in force such fact is required to be established ; or

(*l*) of particulars in any rent-roll or other document produced by any assessee as the basis of his agricultural income or any part of such income ; or

(*m*) of such facts as may be necessary to enable an intending purchaser or other transferee of property to ascertain the nature and extent of the liability of any such property for agricultural income-tax ; provided that no such disclosure shall be made except with the consent of the assessee.

(4) Nothing in this section shall apply to the production by a public servant before a court of any document declaration or affidavit filed or the record of any statement or deposition made, in proceedings under section 30 or to the giving of evidence by a public servant in respect thereof.

(5) No prosecution shall be instituted under this section—

(*a*) against a person who is not removable from his office save by or with the sanction of the Government or some higher authority, except with the previous sanction of the Government; or

(*b*) against any other person, except with the previous sanction of the authority competent to remove him from his office.

CHAPTER VIII

MISCELLANEOUS

Place of assessment.

54. (1) Subject to any orders passed under sub-section (2), the agricultural income of a person shall be assessed by the Agricultural Income-tax Officer of the area in which is situated the land from which the greater part of the Agricultural income is derived :

Provided that where an assessee has made a return under sub-section (1) of section 18 to the Agricultural Income tax Officer having jurisdiction over the assessee's place of residence or the place where any of his lands is situated or where his accounts are maintained, he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the Officer concerned unless for reasons to be recorded in writing he passes an order that the assessment shall be made in any other place

(2) (*a*) An assessee who has not made a return under section 18 may, before the expiry of the time allowed for the submission of the return, apply to the Agricultural Income tax Officer of the area in which is situated the land from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the State and the Agricultural Income tax Officer shall refer the matter to the Deputy Commissioner whose decision thereon shall be final

(*b*) where an order is passed under clause (*a*), the assessee shall not be entitled to make any further application to change his place of assessment

Provided that the Agricultural Income-tax Officer may allow the assessee to be assessed at any other place upon such conditions as he thinks fit

(3) Notwithstanding anything contained in this section, every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on an Agricultural Income tax Officer in respect of any agricultural income derived from land situated within the area for which he is appointed

55. (1) If in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VII of this Act, a question of law arises, the Commissioner may, either of his own motion or on reference from any authority subordinate to him, draw up a statement of the case and refer it with his own opinion to the High Court Reference to High Court

(2) Within sixty days of the date on which he is served with a notice of an order under section 32 or under section 34 or of an order under section 35 enhancing an assessment or otherwise prejudicial to him, the assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order, and the Commissioner shall, within ninety days of the receipt of such application, draw up a statement [illegible] case, and refer it with his own opinion thereon to Court

Provided that a reference shall lie from section 35 only on a question of law arising [illegible]

itself and not on a question of law arising out of a previous order under section 32 revised by the order under section 35 :

Provided further that if in the exercise of his power of revision under section 35, the Commissioner decides the question or if he rejects the application on the ground that it is time-barred or otherwise incompetent or if in exercise of his power under sub-section (3), the Commissioner refuses to state the case, the assessee may, within thirty days from the date on which he receives a notice of the order passed by the Commissioner, withdraw his application and if he does so, the fee paid shall be refunded.

(3) if on any application being made under sub-section (2), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may, within two months from the date on which he is served with the notice of refusal, apply to the High Court and that Court may, if it is not satisfied of the correctness of the decision of the Commissioner, require him to state the case and to refer it and on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

(4) If on any application being made under sub-section (2), the Commissioner rejects it on the ground that it is time-barred the assessee may, within two months, from the date on which he is served with the order of the Commissioner apply to the High Court and that Court may, if it is not satisfied of the correctness of the decision of the Commissioner require him to treat the application as made within the time allowed by sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner to make such additions thereto or such alterations therein as the Court may direct in that behalf.

(6) The High Court upon the hearing of any such case shall decide the question of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send to the Commissioner a copy of such judgment under the seal of the Court and signature of the Registrar, and the Commissioner shall dispose of the case accordingly or if the case arose on a reference from any authority subordinate to him, shall forward a copy of such judgment to such authority, who shall dispose of the case conformably to such judgment.

(7) Where a reference is made to the High Court, the cost shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with the assessment made in the case :

Provided that if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

(9) Section 5 of the Indian Limitation Act, 1908 shall apply to an application to the High Court by an assessee under sub section (3) or sub section (4) *(Central Act IX of 1908)*

56. When any case has been referred to the High Court under section 55, it shall be heard by a Bench of not less than two Judges of the High Court and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908, shall so far as may be, apply notwithstanding anything contained in any law for the time being in force *(Reference to be heard by Bench of High Court)* *(Central Act No V 1908)*

57. (1) Any assessee who is entitled or required to attend before any Agricultural Income-tax Authority in connection with any proceeding under this Act otherwise than when required under section 38 to attend personally for examination on oath or affirmation, may attend either in person or by any person duly authorised by him in writing in this behalf being a relative or a person wholly or principally employed in the service of the assessee or a lawyer or an accountant or an Income-tax practitioner and not being disqualified on the ground of misconduct by or under any law or under any order of Government *(Appearance by authorised representative)*

(2) No person who has been dismissed from Government service shall be qualified to represent an assessee under sub-section (1), and if any lawyer or accountant or an Income-tax practitioner is found guilty of misconduct in connection with any proceedings under the Indian Income-tax Act, 1922, or this Act by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1): *(Central Act XI of 1922)*

Provided that—

(a) no such direction shall be made in respect of any person, unless he is given a reasonable opportunity of being heard;

(b) any person against whom such direction is made may within one month of the making of the direction, appeal to the prescribed authority to have the direction cancelled, and

(c) no such direction shall take effect until one month from the making thereof, or, when an appeal is preferred, until the disposal of the appeal

(3) In this section—

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank as defined in the Reserve Bank of India Act, 1934, with which the assessee maintains a current account or has other regular deal[...]

(ii) "accountant" means a member of an [...] of accountants recognised in this beh[...] Government,

(*iii*) "Income-tax practitioner" means an Income-tax practitioner as defined in the Indian Income-Tax Act, 1922; Centr XI of

(*iv*) "lawyer" means any person entitled to plead in any court of law in the State.

Receipt to be given.

58. A receipt shall be given for any money paid or recovered under this Act.

Indemnity.

59. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.

Manner of service of notices.

60. (1) A notice or requisition under this Act may be served on the person therein named either by registered post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908. Centr V of

(2) Any such notice or requisition may, in the case of a firm, Hindu undivided family, an Aliyasanthana family or branch or a Marumakkattayam tarwad or tavazhi be addressed to any member of the firm or to the manager, yajaman or karnavan, or any adult male member of the family branch, tarwad or tavazhi and in the case of any other association of persons be addressed to the principal officer thereof.

Power to grant extension of time for returns, etc.

61. The Agricultural Income-tax Officer may in his discretion, in the case of any person or class of persons extend the date before which the return under sub-section (1) of section 18 has to be furnished or, on application by an assessee, allow him such extension or extensions of time as the officer thinks fit to furnish the return or comply with the terms of a notice under this Act.

Power to inspect registers of members of company, etc.

62. The Agricultural Income-tax Authority or any person authorised by him in writing in that behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

Power to make rules.

63. (1) The State Government may, subject to the condition of previous publication, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules—

(*a*) as to the manner in which and the procedure by which agricultural income of a person shall be computed ;

(*b*) as to the deductions to be made in the computation of agricultural income ;

(c) as to the special deductions and allowances where expenditure has to be incurred for a number of years before income is derived therefrom,

(d) as to the form of returns under section 18 and the manner in which they should be verified,

(e) as to the form of the notice of demand mentioned in section 31,

(f) as to the form in which appeals under sections 32 and 34 shall be presented and the manner in which they shall be verified,

(g) as to the form of the notice of demand mentioned in sub section (3) of section 37,

(h) as to the fee mentioned in sub-section (2) of section 55,

(i) as to the manner in which and the authority to whom applications for refunds shall be made and the procedure to be followed in respect of such applications,

(j) as to the authority by whom and the manner in which refunds shall be made, and

(k) as to all other matters expressly required or allowed by this Act to be prescribed

(3) All rules made under this Act shall, be laid as soon as may be, after they are made before the State Legislative Assembly while it is in Session for a total period of one month which may be comprised in one Session or in two or more Sessions and if, before the expiry of the said period, the State Legislative Assembly makes any modification in the rules or directs that any rule shall not have effect, the rules shall thereafter have effect, only in such modified form or be of no effect, as the case may be

64. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall lie against any officer of the State Government for anything in good faith done or intended to be done under this Act — Bar of suits in Civil Courts

65. In computing the period of limitation prescribed for any appeal under this Act or for an application under section 55 the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded — Computation of period of limitation

66. (1) Lands used for growing commercial crops (other than plantation crops or ganja) shall be classified into eight classes as specified in Part II of the Schedule for determining— — Classification of land for compounding of agricultural income-tax etc

(i) the extent of land entitled to exemption from payment of agricultural income tax under clause (ii) of the first proviso to Part I of the Schedule, and

(ii) the extent of the land and the rates for lump payment to be made for purposes of composition of the agricultural income-tax under section

(2) For purposes of sub-section (1), the total extent of land of any person shall be determined in terms of the eighth class of land in accordance with the formula in Part II of the Schedule for determining the equivalent extents of land of different classes.

(3) Where more than one crop or the same crop, is grown successively on any land during any year, the total extent of land shall, for purposes of sub-sections (1) and (2), be the aggregate extents of the lands on which each crop is grown during that year.

Composition of agricultural income-tax.

67. (1) Any person who derives agricultural income from land not exceeding one hundred and fifty acres in extent of the eighth class of land or an extent equivalent thereto consisting of any one or more of the classes of land specified in Part II of the Schedule, may apply to the prescribed officer, for permission to compound the agricultural income-tax payable by him and to pay in lieu thereof a lumpsum at the rate specified in sub-section (2).

(2) The rate of lumpsum payable under sub-section (1) shall be two rupees per acre of the eighth class of land.

(3) Every application under sub-section (1) shall be submitted in such form, in such manner and within such time as may be prescribed.

(4) The prescribed officer shall, after satisfying himself that the particulars specified in the application are correct, by order in writing grant the permission.

(5) Notwithstanding anything contained in sub-section (1) of section 66,

(*a*) in respect of perennial crops, the extent of land containing only plants or trees which have not reached the age of yielding crop shall, for purposes of composition of agricultural income-tax, be excluded from the total extent of land of any person ; and

(*b*) if the Government is satisfied that there has been any loss or damage to crops due to drought, pests or other natural causes,

the Government may, by notification in the Official Gazette, reduce the rates of lumpsum payable for compounding the agricultural income-tax in such areas for such crops and during such years as may be specified in the notification.

(6) The permission granted under sub-section (4) shall be in force for the year for which it is granted ; and in respect of that period the provisions of this Act regarding the submission of returns, accounts or other documents, the assessment to agricultural income-tax or any other matter incidental thereto shall not apply in relation to the grantee.

Amendment of Madras Act XIX of 1954.

68. In Section 3 of the Madras Land Revenue (Surcharge) Act, 1954, Explanation II shall be omitted. Madras XIX of 1

, Act 1951 rabad XIII of as Act 1955 re Act 1955

Repeal and Savings.

69. (1) The Coorg Agricultural Income-tax Act, 1951 as in force in the Coorg District, the Hyderabad Agricultural Income tax Act 1950 as in force in the Hyderabad Area, the Madras Plantations Agricultural Income-tax Act, 1955 as in force in the Madras Area and the Mysore Agricultural Income-tax Act, 1955, as in force in the Mysore Area, are hereby repealed

Provided that such repeal shall not affect—

(*a*) the previous operation of the said enactments or anything duly done or suffered thereunder , or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments ; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments , or

(*d*) any investigation, legal proceeding (including assessment proceeding) or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Notwithstanding anything contained in sub-section (1), for the purpose of giving effect to the preceding proviso to the said sub section (1), the State Government may, by notification, in the Official Gazette make such provision as appears to it necessary or expedient—

(*a*) for making omissions from, additions to and adaptations and modifications of the rules, notifications and orders issued under the repealed enactments ,

(*b*) for specifying the authority, officer or person who shall be competent to exercise such functions exercisable under any of the repealed enactments or any rules, notifications or orders issued thereunder as may be mentioned in the said notification

Power to remove difficulties.

70. (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by order published in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may, by order p[illegible] in the Official Gazette, make such provisions, no[illegible] tent with the purposes of this Act, as appear to it sary or expedient for removing the difficulty.

SCHEDULE

PART I

(*See* section 3)

Rates of Agricultural Income-tax

1. On the first Rs. 1,500 of total agricultural income . .	Nil.
2. On the next Rs. 3,500 of total agricultural income . .	Three naye paise rupee.
3. On the next Rs. 5,000 of total agricultural income . .	Six naye paise i rupee.
4. On the next Rs. 5,000 of total agricultural income . .	Nine naye paise i rupee.
5. On the next Rs. 5,000 of total agricultural income . .	Twelve naye paise rupee.
6. On the next Rs. 5,000 of total agricultural income . .	Fifteen naye paise rupee.
7. On the next Rs. 10,000 of total agricultural income . .	Eighteen naye pa the rupee.
8. On the next Rs. 15,000 of total agricultural income . .	Twenty-one naye pa the rupee.
9. On the next Rs. 50,000 of total agricultural income . .	Twenty-five naye in the rupee.
10. On the balance of total agricultural income . . .	Forty naye paise i rupee.

Provided that no agricultural income-tax shall be payable—

(i) on a total agricultural income which does not exceed three thousand five hu rupees ; or

(ii) by a person who derives agricultural income from land not more than fifty ac the eighth class of land or an extent equivalent thereto consisting of any one or more o classes of land specified in Part II.

The limit referred to in the above proviso shall be seven thousand rupees in the ca every Hindu undivided family or an Aliyasanthana family or branch or a Marumakkatta tarwad or tavazhi including a Nambudiri family or any other class governed by the law plicable to Nambudiris, which satisfies as at the end of the previous year the condition t consists of at least five members :

Provided further that the agricultural income-tax payable shall in no case exceed half of the amount by which the total agricultural income exceeds three thousand five dred rupees or seven thousand rupees, as the case may be.

PART II

(*See* sections 66 and 67)

A. Classification of Lands

First Class.

Land used for growing grapes.

Second Class.

Land used for growing areca.

Third Class.

Land used for growing chillies (irrigated), ginger, mulberry (irrigated), plantain (ir- ated), potato (irrigated), sugarcane, tobacco (Nipani and Virginia) or turmeric.

Fourth Class.

Land used for growing chillies (non-irrigated), coconut, cotton (irrigated), garlic onion potato (non-irrigated).

Fifth Class

Land used for growing tobacco (other than Nipani and Virginia tobacco).

Sixth Class.

Land used for growing mulberry (non-irrigated).

Seventh Class.

Land used for growing mango.

Eighth Class

Land used for growing coriander, cotton (non-irrigated), groundnut or sesamum (til).

B. Formula for determining equivalent extent of land of different classes.

res of Sixth
=6 acres of

SCHEDULE

PART I

(*See* section 3)

Rates of Agricultural Income-tax

1. On the first Rs. 1,500 of total agricultural income . .	Nil.
2. On the next Rs. 3,500 of total agricultural income . .	Three naye paise in the rupee.
3. On the next Rs. 5,000 of total agricultural income . .	Six naye paise in the rupee.
4. On the next Rs. 5,000 of total agricultural income . .	Nine naye paise in the rupee.
5. On the next Rs. 5,000 of total agricultural income . .	Twelve naye paise in the rupee.
6. On the next Rs. 5,000 of total agricultural income . .	Fifteen naye paise in the rupee.
7. On the next Rs. 10,000 of total agricultural income . .	Eighteen naye paise in the rupee.
8. On the next Rs. 15,000 of total agricultural income . .	Twenty-one naye paise in the rupee.
9. On the next Rs. 50,000 of total agricultural income . .	Twenty-five naye paise in the rupee.
10. On the balance of total agricultural income . . .	Forty naye paise in the rupee.

Provided that no agricultural income-tax shall be payable—

(i) on a total agricultural income which does not exceed three thousand five hundred rupees ; or

(ii) by a person who derives agricultural income from land not more than fifty acres of the eighth class of land or an extent equivalent thereto consisting of any one or more of the classes of land specified in Part II.

The limit referred to in the above proviso shall be seven thousand rupees in the case of every Hindu undivided family or an Aliyasanthana family or branch or a Marumakkattayam tarwad or tavazhi including a Nambudiri family or any other class governed by the law applicable to Nambudiris, which satisfies as at the end of the previous year the condition that it consists of at least five members :

Provided further that the agricultural income-tax payable shall in no case exceed one-half of the amount by which the total agricultural income exceeds three thousand five hundred rupees or seven thousand rupees, as the case may be.

PART II

(*See* sections 66 and 67)

A. Classification of Lands

First Class.

Land used for growing grapes.

Second Class.

Land used for growing areca.

Third Class.

Land used for growing chillies (irrigated), ginger, mulberry (irrigated), plantain (ir-
d), potato (irrigated), sugarcane, tobacco (Nipani and Virginia) or turmeric.

Fourth Class.

Land used for growing chillies (non-irrigated), coconut, cotton (irrigated), garlic onion
tato (non-irrigated).

Fifth Class

Land used for growing tobacco (other than Nipani and Virginia tobacco)

Sixth Class.

Land used for growing mulberry (non-irrigated).

Seventh Class.

Land used for growing mango.

Eighth Class.

Land used for growing coriander, cotton (non-irrigated), groundnut or sesamum (til).

B. Formula for determining equivalent extent of land of different classes.

of land = 18 acres of Sixth
th Class of land = 6 acres of
rst Class of land.

THE ORISSA AGRICULTURAL INCOME-TAX ACT, 1947

[ORISSA ACT XXIV OF 1947]

An Act to Provide for Imposition of a Tax on Agricultural Income

WHEREAS it is expedient to impose a tax on agricultural income derived from lands situated in the [1][State] of Orissa ;

IT is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Orissa Agricultural Income-tax Act, 1947.

(2) It shall extend to the whole of the [1][State] of Orissa.

(3) This section shall come into force at once and the remaining sections of this Act shall come into force on such date as the Provincial Government may, by notificatoin, appoint.

Definitions.

2. [2][In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Agricultural income" means—

(1) any rent or income derived from land which is used for agricultural purposes, and is either assessed to land revenue in the State of Orissa or subject to a local cess or rate assessed and collected, by officers of the State Government as such;

(2) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in paragraph (ii);

Substituted by Adaptation of Laws Order, 1950.

[2] Substituted by Orissa Act 21 of 1957.

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub clause (2) is carried,

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house or as a store house, or other out building,

(*b*) "agricultural income-tax" means the tax payable under this Act,

(*c*) "agricultural year" means where the Oriya year prevails, the year commencing on the first day of Baisakh, where the Fasli or Amli year prevails the year commencing on the first day of Aswin, and where any other year prevails for agricultural purposes, that year,

(*d*) "assessee" means a person by whom agricultural income-tax is payable,

1 of 1956 (*e*) "Company" means a company as defined in the Indian Companies Act, 1956 or formed in pursuance of an Act of the United Kingdom or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in the Union of India, whether incorporated or not and whether its principal place of business is situate in the said Union or not which the State Government may, by general or special order, declare to be a company for the purposes of this Act,

(*f*) "financial year" means the year beginning on the first day of April and ending on the 31st day of March next following,

IX of 1932 (*g*) "firm" has the same meaning as in the Indian Partnership Act, 1932,

B & O Act II of 1913 C P. Act XI of 1898. C. P Act I of 1920 Madras Act I of 1908. (*h*) "landlord" means any individual, who receives rent in cash or kind from a tenant and includes a 'landlord' as defined in the Orissa Tenancy Act, 1913, Central Provinces Tenancy Act, 1898, Central Provinces Tenancy Act, 1920, and 'land holder' as defined in the Madras Estates Land Act, 1908;

(*i*) "person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee receiver, common manager, administr

executor or in any capacity recognised by law and includes a Hindu undivided family, firm and company;

(*j*) "prescribed" means prescribed by rules made under this Act.

(*k*) "previous year" means the twelve months ending on the 31st day of March preceding the year for which the assessment is to be made or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the 31st day of March then at the option of the assessee the year ending on the day to which his accounts have been so made up:

Provided that if the option has once been exercised by an assessee he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of any agricultural income-tax authority and upon such conditions as he may think fit :

Provided further that any agricultural year terminating not later than one month after the end of the previous financial year may be recognised as the 'previous year';

(*l*) "Principal Officer" used with reference to a company or any other association means—

(*i*) the Secretary, treasurer, manager or agent of the company or association, or

(*ii*) any person, connected with the Company or Association upon whom any agricultural income-tax authority has served a notice of his intention of treating him as principal officer thereof:

(*m*) "State of Orissa" shall for the purpose of imposition of agricultural income-tax under this Act include and shall be deemed always to include the merged territories now forming part of the said State—

(*i*) with effect from the 1st day of April 1948 in respect of the said territories other than Mayurbhanj;

(*ii*) with effect from 1st day of April 1949 in respect of the merged territory of Mayurbhanj ; and

(*n*) "total agricultural income" means the aggregate of the amounts of agricultural income derived from land situate in the State of Orissa and received whether within or without the said State and determined in the manner laid down in sections 6 and 7.]

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

3. Agriculturals income tax at the rate or rates specified in the Schedule hall be charged for each financial year in accordance with and subject to the provisions of this Act on the total agricultural income of the previous year of every person — Charge o Agricultur ncome-tax

Provided that the agricultural income tax shall not be charged on the agricultural income of the Central Government or any[1] [State] Government or any local authority

4. Save as hereinafter provided this Act shall apply to all agricultural income derived from land situate in the [State][1] of Orissa — Applicatioi of the Act

5. Agricultural income tax shall be payable by every person whose total agricultural income of the previous year exceeds *five thousand rupees* — Limits of taxable income

6 The agricultural income referred to in sub clause (1) of clause (a) of section 2 shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said sub clause (1), after making the following deductions — — Determina tion of agricultur income mentioned in sub-cla (1) of cla (a) of section 2

(a) any sums actually paid in the previous year on account of land revenue, local rates and cesses, water rate or water cess and municipal-taxes in respect of the land from which the agricultural income is derived,

(b) any rent actually paid in the previous year to a superior land lord in respect of the land from which the agricultural income is derived,

(c) a sum equal to such percentage as may be prescribed of the total amount of the rent which accrued due in the previous year in respect of the charges for collecting the same,

Bengal Act VI of 1870 Orissa Regulation IV of 1936 Orissa Regulation V of 1936

(d) any rate paid or payment made in the previous year under the Village Chaukidari Act, 1870 the Khondmals Laws Regulation, 1936, or the Angul Laws Regulation, 1936, in respect of any building used by the assessee as an office for collection of the rents due in respect of the land from which such agricultural income is derived,

(e) any expense incurred in the previous year on the maintenance of any irrigation or protective work constructed for the benefit of the land from which such agricultural income is derived,

(f) the amount paid in the previous year on account of the repairs to any capital assets used in co with the collection of rents due in r land from which such agricultural inc

[1] Subs by A L O 1950

(*g*) interest actually paid in the previous year on any amount borrowed and actually spent on any capital expenditure incurred after the passing of this Act for the benefit of the land from which such agricultural income is derived;

(*h*) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after the commencement of this Act for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land;

(*i*) any interest paid in the previous year on any mortgage or any other kind of debt or any interest paid in the previous year on other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived;

(*j*) when the property from which such agricultural income is derived is subject to a mortgage created before the 1st October, 1946, the amount of any interest actually paid in the previous year on such mortgage ; and

(*k*) such other deductions as may be prescribed.

Determination of agricultural income mentioned in sub-clause (2) of clause (a) of section 2.

7. (1) The agricultural income referred to in sub-clause (2) of clause (*a*) of section 2 shall be assessed on the net amount of such income determined in the prescribed manner.

(2) Rules prescribing the manner of determining the net amount of agricultural income for the purpose of this section shall provide that the following deductions shall be made from the gross amounts of such income, namely :—

(*a*) any sums actually paid in the previous year as land revenue, a local rates and cesses water-rate or water-cess, and municipal taxes in respect of the land from which the agricultural income is derived;

(*b*) any rent actually paid in the previous year to a superior land-lord in respect of the land from which the agricultural income is derived;

(*c*) any rate paid or payment made in the previous year under the Village Chaukidari Act, 1870, the Khondmals Laws Regulation, 1936 or the Angul Laws Regulation, 1936, in respect of any building used for the purposes of the cultivation of the land from which such agricultural income is derived;

Bengal Act VI of 1870. Orissa Regulation IV of 1936. Orissa Regulation V of 1936.

(*d*) the expenses of cultivating the crop from which such agricultural income is derived, of transporting such crop to market, including the maintenance of agricultural implements and cattle required for the purpose of such cultivation and for transporting the crop to market;

(*e*) any tax, cess or rate paid under any Orissa Act on the cultivation or sale of the crop from which such agricultural income is derived,

(*f*) (*i*) any expense incurred in the previous year on the maintenance of any irrigation or protective work constructed for the benefit of the land from which such agricultural income is derived,

(*ii*) any expense incurred in the previous year on the maintenance of any capital asset purchased or constructed if such maintenance is required for the purpose of deriving such agricultural income from such land,

(*iii*) interest actually paid in the previous year on any amount borrowed and actually spent on any capital expenditure incurred after the passing of this Act for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land,

(*iv*) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after the commencement of this Act for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land, and

(*v*) any interest paid in the previous year on any mortgage or other capital charge incurred for the purposes of acquiring the property from which such agricultural income is derived or for the purposes of cultivation of the property

Provided that no deduction shall be made under this clause, if it has already been made under section 6, and

(*g*) such other deductions as may be prescribed

Exemption of charita or relig trusts

8. (1) Where the assessee is a trustee and the trust under which he holds the property is a trust, created for public purposes of a charitable or religious nature, any sum derived from land held under such trust and actually spent for the said purposes, shall not be included in the total agricultural income of such assessee

(2) In this section purposes of a charitable nature include relief of the poor, education, medical relief and advancement of any other object of general public utility

Exemption Wakf alala lad

VI of 1913

9. All agricultural income of Muslim trusts referred to in section 3 of the Musalman Wakf Validating Act, 1913 created before the commencement of this Act, shall be, excluded from the operation of this Act

Provided that the share of a beneficiary under a under the aforesaid Act, *commonly known as W* shall not be exempted and the tax may be rea *mutawali* and the basis of taxation shall be the beneficiary

Explanation—For the purposes of this section, a beneficiary means the settler, his family, children and descendants.

Assessment of a Hindu undivided family.

10. (1) The total agricultural income of a Hindu undivided family shall be treated as the income of one individual and assessed as such :

Provided that if a Hindu undivided family consists of brothers only as explained in the Schedule, the total agricultural income of the family shall be assessed at the rate specified in the Schedule.

(2) The income derived by a woman from her *stridhana* property shall not be included in the income of the Hindu undivided family.

Assessment of tax on land held for the benefit of several persons.

11. (1) Save as provided in sections 9, 12 and 13, if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of beneficiaries, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would have been applicable if such person had held the land exclusively for his own benefit, and the agricultural income-tax so payable shall be assessed on the person holding such land, and he shall be liable to pay the same.

(2) Any person holding such land shall be entitled before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount of agricultural income-tax at the rate at which the agricultural income is or will be assessed under sub-section (1).

Explanation—In this section "beneficiary" means a person legally entitled to a portion of the agricultural income derived from the land.

Assessment of tax on common manager, receiver, etc.

12. Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of the sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received by him shall be assessed on such common manager, receiver, administrator, or the like, and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

Court of Wards, etc.

13. In the case of agricultural income chargeable under this Act, which is received by the Court of Wards, the Administrator General or the Official Trustee, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General, or Official Trustee, in the like manner and to the same amounts as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly :

[1]["Provided that nothing contained in this section shall prevent either a direct assessment of the person on whose behalf agricultural income is receivable by such Court of Wards or Administrator General or the Official Trustee or the recovery from such person of the tax payable in respect of such agricultural income, after the property has been released from the control of the Court of Wards or the Administrator General or the Official Trustee "]

Inclusions prevent evasion of

14. (1) In computing the total agricultural income of any individual for the purpose of assessment there shall be included—

(*a*) so much of the agricultural income of a wife or minor child of such individual as arises directly or indirectly—

(*i*) from the membership of the wife in a firm of which her husband is a partner,

(*ii*) from the admission of the minor to the benefits of a partnership in a firm of which such individual is a partner,

(*iii*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart or

(*iv*) from assets transferred directly or indirectly to the minor child not being a married daughter, by such individual otherwise than for adequate consideration, and

(*b*) so much of the total agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or a minor child or both

(2) Nothing in this section shall affect the operation of sub section (2) of section 10

Exemptions in case of life insurances.

15 (1) (*a*) Agricultural income tax shall not be payable by an assessee in respect of any sums paid by him out of his total agricultural income to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any provident fund to which the
XIX of 1925 Provident Funds Act, 1925, applies

Provided that agricultural income tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable if such deduction had not been made

(*b*) Nothing in this sub section shall be deemed to entitle an assessee, who is assessed to income tax under the Indian
Act XI of 1922 Income tax Act, 1922, to claim a deduction in respect of any sum paid by him as mentioned in clause (*a*), if such sum was exempted under section 15 of the said Act

[1] Inserted by Orissa Act 2 of 1958

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any member of the family.

(3) The aggregate of any sums exempted under this section shall not exceed one-sixth of the total agricultural income of the assessee.

Exemption of sums spent for charitable purposes.

16. Agricultural income-tax shall not be payable by an assessee in respect of any amount actually spent by him out of his total agricultural income for the benefit of the people of the [1][State], for charitable purposes such as relief of the poor, education, medical relief and the advancement of any other object of general public utility :

Provided that agricultural income-tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable if such deduction had not been made.

Non-residents.

17. (1) In the case of any person residing outside the [1][State] of Orissa, his total agricultural income shall be chargeable to agricultural income-tax either in his name or in the name of his agent and in the latter case, such agent shall be deemed to be for all the purposes of this Act the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person residing out of the [1][State], or through whom the non-resident person is in receipt of any agricultural income upon whom [2][any income tax authority appointed under sub-section (3) of section 18] has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent :

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Agricultural Income-tax Officer or the Assistant Agricultural Income-tax Officer as to his liability.

(3) Where a notice under this Act has to be served on a non-resident person it shall be served in the prescribed manner.

CHAPTER III

INCOME-TAX AUTHORITIES

Income-tax authorities, their powers and functions.

18. [2][(1) The Commissioner of Sales-tax appointed as such for the time being under the provisions of the Orissa Sales Tax Act, 1947, shall be the Commissioner of Agricultural Income-tax and he shall exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act.

Orissa Act 14 of 1947

(2) The Sales Tax Tribunal or the Additional Sales Tax Tribunal as the case may be appointed as such under the provision of the Orissa Sales Tax Act, 1947, shall be the

[1]Substituted by A. L. O. 1950.

[2]Substituted by Orissa Act 21 of 1957.

Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be for the purpose of exercising such judicial powers as are or may be conferred by or under the provisions of this Act or the rules made thereunder.

(3) The State Government may appoint such other persons under any prescribed designations including that of a Deputy Commissioner to assist the Commissioner and they shall exercise such powers and perform such duties as may be conferred or imposed by or under the provisions of this Act

Powers function the cor sioner

18 A Without prejudice to any other functions that the Commissioner may perform under the provisions of this Act, he shall also exercise the following powers and discharge the following functions —

(i) to superintend and control all persons employed in the executive administration of agricultural income-tax,

(ii) subject to the provisions of this Act and rules made thereunder, to make rules of procedure and conduct of administration for the guidance of all persons subordinate to him,

(iii) to call for any record from any subordinate officer and also to call for any papers in connection with any assessment, and

(iv) to inspect the records and to superintend the work of officers subordinate to him and their offices]

Sections 3 and 4 of Orissa Act 21 of 1957:

[3] (1) *Adaptation and savings* —For the words "Collecter of Agricultural Income Tax' wherever occur in the said Act the word 'Commissioner' shall be substituted

(2) Any reference in the said Act, or in the rules, orders or notifications made or issued tl under by the Collector of Agricultural Income tax or any other Agricultural Income tax autho shall be read and construed as a reference respectively to the corresponding authority appoi under section 18 as hereinafter amended and such rules, orders or notifications shall have force *effect accordingly*

[4] *Validation of imposition of tax in relation to merged territories* —Notwithstanding any judgm decree or order of any Court no order imposing or authorising the imposition of Agricult

ance with law."

ASSESSMENT, DEDUCTIONS AND EXEMPTIONS

Return of income.

19. (1) The principal officer of every company shall prepare and on or before the prescribed date in each year, furnish to [1][any income-tax authority appointed under sub-section (3) of section 18] as the case may be, a return in the prescribed form and verified in the prescribed manner of the total agricultural income of the company during the previous year :

Provided that [1][any income-tax authority appointed under sub-section (3) of section 18] may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose total agricultural income is, in the opinion of [1][any income-tax authority appointed under sub-section (3) of section 18] of such amount as to render such person liable to the payment of agricultural income-tax for any financial year, [1][any income-tax authority appointed under sub-section 3 of section 18] as the case may be shall serve in that financial year a notice in the prescribed form upon him requiring him to furnish, within the prescribed period, a return in the prescribed form and verified in the prescribed manner setting forth his total agricultural income during the previous year.

(3) If any person having furnished a return under sub-section (2), within the time allowed by or under the approriate sub-section, discovers any omission or wrong statement therein, he may furnish a revised return at any time before the assessment is made and any return so made shall be deemed to be made in due time under this section.

[2] [(4) [1][any income-tax authority appointed under sub-section (3) of section 18] may serve on the principal officer of a company, who is required to furnish a return under sub-section (1) or on any person upon whom a notice has been served under sub-section (2), a notice requiring him, on a date to be specified therein, to produce, or cause to be produced, such accounts or documents as [1][any income-tax authority appointed under sub-section 3 of section 18] may require :

Provided that [1][any income-tax authority appointed under sub-section (3) of section 18] shall not require the production of any account relating to a period more than three years prior to the previous year.]

Assessment.

20. (1) If [1][any income-tax authority appointed under sub-section (3) of section 18] is satisfied that a return made under section 19 is correct and complete, he shall assess

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[1] Substituted by Orrisa Act 21 of 1957.

[2] Inserted by Orissa Act 1 of 1950.

the total agricultural income of the assessee and shall determine the sum payable by him on the basis of such return

(2) If [1][any income tax authority appointed under sub-section (3) of section 18] has reason to believe that a return made under section 19 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on the date to be therein specified either to attend at the office of [1][any income tax authority appointed under sub-section (3) of section 18] or to produce or to cause to be there produced any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be [1][any income-tax authority appointed under sub section (3) of section 18] after hearing such evidence as such person may produce and such other evidence as [1][any income-tax authority appointed under sub-section (3) of section 18] may require on specified points, shall, by an order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on such assessment

(4) If the principal officer of any company or other person fails to make a return under sub section (1) or sub section (2) of section 19, as the case may be, or, having made the return fails to comply with all the terms of the notice issued under sub section (2) of this section, or to produce any evidence

income-

tion 18]

Provided that before making such assessment, [1][any income-tax authority appointed under sub section (3) of section 18] may allow the assessee such further time as he thinks fit to make the return or comply with the terms of the notice or to produce the evidence

(5) Save as otherwise provided in section 30 no person

21. (1) If [1][any income-tax authority appointed under sub section (3) of section 18] or the [2][Assistant Commissioner of Agricultural Income tax] or the [1][Commissioner] in the course of any proceeding under this Act is satisfied that any person—

Penalty for non-submission of return, non compliance with notice and concealment of income.

(a) has without reasonable cause failed to furnish the return of total agricultural income which he was required to furnish under sub-section (1) or sub-section (2) of section 19 or under section 30 has without reasonable cause failed to furn

[1] Subs. by Orissa Act 21 of 1957

[2] Subs. by Orissa Act 2 of 1958.

within the time allowed and in the manner required by a notice under those sections; or

(*b*) has without reasonable cause failed to comply with a notice [1][under sub-section 4 of section 19 or] under sub-section (2) of section 20; or

(*c*) has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income;

he may direct that such person shall pay by way of penalty, in the cases referred to in clauses (*a*) and (*b*), in addition to the amount of agricultural income-tax, if any, payable by him a sum not exceeding that amount, and, in the case referred to in clause (*c*), in addition to any agricultural income-tax payable by him, a sum not exceeding the amount of tax, if any, which would have been avoided if the agricultural income so returned by him had been accepted as the correct income:

Provided that—

(*a*) no penalty shall be imposed under this sub-section upon a person who has failed to comply with a notice under sub-section (2) of section 19 or under section 30 if he proves that he has no income liable to tax ;

(*b*) no penalty shall be imposed under this sub-section upon any person assessable as the agent of any person not a resident in the [2][State] of Orissa for failure to furnish the return under section 19 unless a notice under sub-section (2) thereof or under section 30 has been served on him.

(2) No order under sub-section (1) shall be made unless the assessee has been heard or has been given a reasonable opportunity for being heard.

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under sub-section (1).

(4) If the [3][Commissioner] makes an order under sub-section (1), he shall forthwith send a copy of the same to [4][the Assistant] [4]Commissioner of Agricultural Income-tax or] [3][any income-tax authority appointed under sub-section (3) of section 18] concerned.

Power to assess individual members of certain firms, associations and companies.

22. (1) Where [3][any income-tax authority appointed under sub-section (3) of section 18] is satisfied that any firm or other association of individuals carrying on any business, other than a Hindu undivided family or a company is under the control of one member thereof, and such firm or association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax

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[1] Inserted by Orissa Act 1 of 1950.

[2] Subs. by A. L. O. 1950

[3] Subs. by Orissa Act 21 of 1957.

[4] Subs. by Orissa Act 2 of 1958.

of any member thereof, he may with the previous approval of the [1][Assistant Commissioner of Agricultural Income tax], pass an order that the sum payable as Agricultural Income-tax by the firm or association shall not be determined, and thereupon the share of each member in the agricultural income of the firm or association shall be included in his total agricultural income for the purpose of assessment there on

Explanation—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association

(2) Where [2][any income tax authority appointed under sub section (3) of section 18] is satisfied that a company is under the control of not more than five of its members and that its agricultural income is allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business, without being distributed to the members or that a reasonable part of its agricultural income, having regard to the said needs has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total agricultural income and that such accumulation or failure to distribute is for the purpose of preventing the imposition of agricultural income tax upon any of the members in respect of their shares in the agricultural income so accumulated or not distributed, may, with the previous approval of the [1][Assistant Commissioner of Agricultural Income tax], pass an order that the sum payable as agricultural income tax by the company shall not be determined and thereupon the proportionate share of each member in the agricultural income of the company, whether such agricultural income has been distributed to the members or not shall be included in the total agricultural income of such member for the purpose of his assessment thereon

Provided that this sub section shall not apply to any company which is a subsidiary company or in which the public are substantially interested

Explanation—For the purposes of this sub section—

(*a*) a company shall be deemed to be a subsidiary company if by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this sub section apply or of two or more companies none of which is a company to which those provisions apply,

(*b*) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a f

[1] Subs by Orissa Act 2 of 1958

[2] Subs by Orissa Act 21 of 1957

to participate in profits) carrying not less than twenty-five per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by and are at the end of the previous year beneficially held by the public (not including a company to which the provisions of this sub-section apply) and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in [1][a Part A State or a Part C State] or are, in fact, freely transferable by the holders to other members of the public;

(*c*) unless the contrary is proved a company shall be deemed to be under the control of any person where the majority of the voting power or shares is in the hands of those persons or of the relatives or nominees of those persons;

(*d*) "nominee" means a person who may be required to exercise his voting power on the directions of, or holds shares directly or indirectly on behalf of, another person.

(3) The [2][Assistant Commissioner of Agricultural Income-tax] shall not give his approval to any order proposed to be passed by the [3][any income-tax authority appointed under sub-section (3) of section 18] until he has given the firm, association or company concerned an opportunity of being heard.

(4) (*i*) Where any member of a firm or association of individuals makes default in the payment of agricultural income-tax on his share of agricultural income which has been included in his total agricultural income under the provisions of sub-section (1), such agricultural income-tax may be recovered from the firm or association, as the case may be.

(*ii*) where the proportionate share of any member of a company in the undistributed agricultural income of the company has been included in his total agricultural income under the provisions of sub-section (2), the agricultural income-tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

(*iii*) where agricultural income-tax is recoverable from a company, firm or other association under this sub-section a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company, firm or association shall be deemed to be assessee in respect of such sum for the purposes of Chapter V.

(5) Where agricultural income-tax has been paid in respect of any undistributed agricultural income of a company under this section and such agricultural income is subsequently distributed in any year, the proportionate share therein of any

[1] Subs. by A. L. O. 1950.

[2] Subs. by Orissa Act 2 of 1958.

[3] Subs. by Orissa Act 21 of 1957.

member of the company shall be excluded in computing his total agricultural income of that year

23. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate Tax of deceased persons

(2) Where a person dies before he is served with a notice under sub section (2) of section 19 or section 30, as the case may be, [1][any income tax authority appointed under sub-section (3) of section 18] may serve on his executor, administrator or other legal representative a notice under sub section (2) of section 19 or under section 30 as the case may be, and may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee

(3) Where the person dies, without having furnished a return which he has been required to furnish under the provisions of sub section (2) of section 19 or having furnished a return which [1][any income tax authority appointed under sub section (3) of section 18] has reason to believe to be incorrect or incomplete [1][any income tax authority appointed under sub section (3) of section 18] may make an assessment of the total agricultural income of such person and determine the tax payable by him on the basis of such assessment and for this purpose may require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sub sections (2) and (3) of section 20 have required from the deceased person

24. When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, [1][any income- Notice of demand.

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against the assessment or against such order

[2][Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of tax as the appellant may admit to be due from him has been paid]

(2) Every appeal under this section shall ordinarily be presented within the prescribed period but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period, if the authority is

[1] Subs by Orissa Act 21 of 1957

[2] Inserted by ibid

satisfied that the appellant had sufficient cause for not presenting it within the prescribed period.

(3) The prescribed authority shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make such further enquiries as he thinks fit.

(4) Every appeal under this section shall be presented in the prescribed form, and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the prescribed authority may, in the case of an order of assessment—

(*a*) confirm, reduce, enhance or annul the assessment;

(*b*) set aside the assessment and direct the authority who made the assessment to make a fresh assessment after such further enquiry as may be directed,

or in the case of an order under section 21 confirm, cancel or vary such order:

Provided that no enhancement of an assessment shall be made under this section unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

Appeal against enhancement of assessment.

26. [1][(1) Any assessee or as the case may be, the State Government dissatisfied with an appellate order made under sub-section (5) of section 25 may, within thirty days from the date of receipt of such order, prefer an appeal in the prescribed manner to the agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be against such order.

(2) The assessee or the State Government as the case may be, on receipt of notice that an appeal has been preferred under sub-section (1) may, notwithstanding that the said assessee or the State Government may not have appealed against such order or any part thereof, within thirty days of the service of the notice, file a memorandum of cross objections and such memorandum shall be disposed of by the said Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be as if it were an appeal presented within the time under sub-section (1).

(3) Any order made by the Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be under sub-section (2) shall be final.]

*27

1 Substituted by Orissa Act 14 of 1955.

*Sec. 27 was repealed by Orissa Act 21 of 1957.

[1][28 (1) Subject to such rules as may be made and for reasons to be recorded in writing the Commissioner may, upon application by an assessee or on his own motion revise any order made under this Act or the rules made thereunder by any person other than the Agricultural Income tax Tribunal or the Additional Agricultural Income tax Tribunal as the case may be appointed under sub section (3) of section 18 to assist him

Power of revision

Provided that the Commissioner shall not entertain any such application for revision if the assessee filing the same having a remedy by way of appeal under section 25 or section 26 did not avail of such remedy or the application is not filed within the prescribed period

(2) If the Commissioner proposes to reject an application for revision under the foregoing provision he shall record the reasons for such rejection

(3) Any order made under this sub section by the Commissioner shall be final

(4) Any person likely to be affected prejudicially by any order made under this section shall be given a reasonable opportunity of being heard before such order is made

Provided that an order passed on revision by the Commissioner declining to interfere with the original order which is sought to be revised shall not be deemed to be an order prejudicial to the applicant]

29 [2](1) [ ]

Reference of case by the Revenue Commissioner to High Court

[1][(2) Within sixty days from the making of any order by the Agricultural Income tax Tribunal or the Additional Agricultural Income tax Tribunal as the case may be under section 26 affecting any liability of any assessee to pay tax under this Act, such assessee or as the case may be the State Government may, by application in writing accompanied, when the application is made by any person other than the State Government, with a fee of one hundred rupees, require the Agricultural Income tax Tribunal or the Additional Agricultural Income tax Tribunal as the case may be to refer to the High Court any question of law arising out of such order and except in cases covered under sub section (3) the Agricultural Income tax Tribunal or the Additional Agricultural Income tax Tribunal, as the case may be, may within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court

Provided that, if the Tribunal rejects the application

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by the Tribunal withdraw his application, and if he so the fee paid shall be refunded]

[1] Substituted by Orissa Act 21 of 1957

[2] Omitted by Orissa Act 14 of 1955

(3) If on any application being made under sub-section (2), the [1][Tribunal] refuses to state the case on the ground that no question of law arises, the assessee may apply, within six months from the date on which he is served with notice of the refusal, to the High Court, and the High Court, if it is not satisfied of the correctness of the decision of the [1][Tribunal] may require the [1][Tribunal] to state the case and to refer it, and, on receipt of any such requisition, the [1][Tribunal] shall state and refer the case accordingly :

[2][Provided that the right available to the assessee to apply to the High Court under this sub-section shall not be exercised in case he withdraws his application and takes a refund of the fees payable under sub-section (2).]

(4) If, on any application being made under sub-section (2), the [1][Tribunal] rejects it on the ground that it is time-barred, the assessee may, within two months from the date on which he is served with notice of the order of the [1][Tribunal] apply to the High Court, and the High Court, if it is not satisfied of the correctness of the decision of the [1][Tribunal] may require the [1][Tribunal] to treat the application as made within the time allowed under sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the [1][Tribunal] to make such additions thereto or alterations therin as the court may direct in that behalf.

(6) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the [1][Tribunal] a copy of such judgment under the seal of the Court and the signature of the Registrar; and the [1][Tribunal] shall dispose of the case accordingly [3][ ].

(7) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the [1][Tribunal] may allow.

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[1] Substituted by Orissa Act 14 of 1955.

[2] Inserted by Orissa Act 14 of 1955.

[3] Deleted by Orissa Act 14 of 1955.

X of 1908 (9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court by an assessee under sub section (3) or sub section (4)

30. If for any reason any agricultural income chargeable to agricultural income tax has escaped assessment for any financial year, or has been assessed at too low a rate, [1][any income tax authority appointed under sub-section (3) of section 18], as the case may be, may, at any time within three years of the end of that financial year, serve on the person liable to pay agricultural income tax on such agricultural income or, in the case of a company, on the Principal Officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub section (2) of section 19 and may proceed to assess or reassess such income, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub section Income escaping assessment

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be

31. (1) The authority which passed an order on appeal or revision may, at any time within three years from the date of such order, [1][and any income tax authority appointed under sub section (3) of section 18] may at any time within three years from the date of any demand made upon an assessee, of his own motion, rectify any mistake apparent from the record of the appeal or assessment, as the case may be, and shall within the like period rectify any such mistake as has been brought to his notice by such assessee Rectification of mistake

Provided that no such rectification shall, if it has the effect of enhancing the assessment, be made unless the appellate or revising authority or [1][any income-tax authority appointed under sub section (3) of section 18] has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard

(2) Where any such rectification has the effect of reducing the asssessment, [1][any income tax authority appointed under sub section (3) of section 18] shall make any refund which may be due to such assessee

(3) Where any such rectification has the effect of enhancing the assessment, [1][any income tax authority appointed under sub section (3) of section 18] shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 24 and th of this Act shall apply accordingly

[1] Substituted by Orissa Act 21 of 1957.

Tax to be collected to the nearest anna.

[1][32]

Power to take evidence on oath.

33. (1) The [2][Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be] and the agricultural income-tax authority shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, V of when trying a suit in respect of the following matters, namely :—

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents; and

(*c*) issuing commissions for the examination of witnesses; and any such proceeding before the [2][Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be] and the said authorities under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code. XLV

(2) If any person assessed to agricultural income-tax in respect of agricultural income mentioned in sub-clause (1) of clause (*a*) of section 2 produces before any agricultural income-tax authority for the purpose of calculating his agricultural income, any rent roll or other similar papers showing the amount of rent received by him, he shall not be entitled to recover, or to institute a suit to recover, rent due to him for any tenure or holding included in such rent roll or other papers at a rate higher than the rate mentioned therein as payable for such tenure or holding, unless the rent shown therein has, since the date of their production, been lawfully enhanced.

(3) Any person who has produced a rent roll referred to in sub-section (2) may, within one year of producing such roll, apply to the agricultural income-tax authority concerned to make any correction therein and that authority may, if he is satisfied that such correction should be made, pass an order correcting such rent roll.

(4) Where the agricultural income-tax authority passes any order under sub-section (3) he may assess under section 30 any income escaping assessment by reason of the original incorrectness of any entry corrected.

Power to call for information.

34. The [3][Assistant Commissioner of Agricultural Income-tax], [2][any income-tax authority appointed

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[1] Sec. 32 was omitted by Orissa Act 2 of 1958.

[2] Subs. by Orissa Act 21 of 1957.

[3] Subs. by Orissa Act 2 of 1958.

under sub section (3) of section 18] may, for the purposes of this Act —

(1) require any firm or Hindu undivided family to furnish him with a return of the names of members of the firm or of the names of manager or the brothers or their widows and sons of brothers and the sons of the sons of brothers of the family, as the case may be, and of their addresses ,

(2) require any person whom he has reason to believe to be a trustee, guardian or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses

CHAPTER V

RECOVERY OF TAX AND PENALTIES

35 (1) Any amount specified as payable in a notice of demand under section 24 or an order under sections 25, [1][ ] 27, or 28 shall be paid in not more than four equal instalments

Tax wh payable

(2) The first of such instalments, shall be paid within one month of the date of the notice of demand or of the order, as the case may be, and the second and subsequent instalments shall be paid at intervals of approximately thirty days on such dates as may be fixed by [2][any income tax authority appointed under sub section (3) of section 18]

(3) If any such instalment is not paid on the date fixed under sub section (2) the assessee shall be in default

[3]["Provided that when an assessee has presented an appeal *under section 25, the appellate authority under the* said section and when such appeal is under section 26, the Commissioner, may, upon application by the assessee, treat him as not being in default in respect of the amount due or any portion thereof so long as the appeal remains pending]

Provided further that if no instalments are paid during the pendency of an appeal, all instalments due shall be payable within three months after the date on which such appeal is disposed of

36 (1) When an assessee is in default in making a payment of agricultural income tax, [2][any income tax authority appointed under sub-section (3) of section 18] may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding one eighth of that amount shall be recovered from the assessee by way of penalty

(2) For the purpose of sub section (1) [2][any income-tax authority appointed under sub-section (3) of sect

Omitted by Orissa Act 14 of 1955

[2] Subs. by Orissa Act 21 of 1957

[3] Subs by Orissa Act 11 of 1959

18] may direct the recovery of any sum less than one-eighth of the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed one-eighth of the amount of the arrears payable.

(3) When an assessee is in default, [1][any income-tax authority appointed under sub-section (3) of section 18] may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein either as an arrear of land revenue or as a public demand payable to the Collector.

(4) (*a*) When, agricultural income-tax is, under section 8, payable by a trustee, or, under section 9, payable by a *mutawali* of a Musalman Wakf referred to in section 3 of the Musalman Wakf Validating Act, 1913, and such trustee or *mutawali* is in default, [1][any income-tax authority appointed under sub-section (3) of section 18] may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector on receipt of such certificate shall proceed to recover from such trustee or *mutawali* the amount specified therein either as an arrear of land revenue or as a public demand : VI of 1

Provided that any land held by such trustee or *mutawali* as such shall not be attached and sold in execution of such a certificate but such arrears may be realised from the income of the trust property of the Wakf estate by the appointment of a receiver.

(*b*) The provisions of Order XL of the Code of Civil Procedure, 1908, shall apply to a proceeding under this sub-section, and the Certificate Officer shall be deemed to be a Civil Court within the meaning of the said Order XL. V of 1908

(5) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of three years from the latest date fixed for payment in the notice of demand served under section 24, or where the assessee has been treated as not being in default under the proviso to section 35, after the expiration of three years from the date on which the appeal is decided.

Special mode of recovery.

[2][36-A. (1) Notwithstanding anything contained in section 35 or sub-sections (1), (2), (3) and (4) of section 36 or any law or contract to the contrary, the Commissioner or any income-tax authority appointed under sub-section (3) of section 18 may, at any time or from time to time, but subject to the provisions of sub-section (5) of section 36, by notice in writing (a copy of which shall be forwarded to

[1] Subs. by Orissa Act 21 of 1957.

[2] Inserted by Orissa Act 11 of 1959.

the assessee at his last address known to the authority issuing the notice) require—

(*a*) any person from whom any money is due or may become due to an assessee who has failed to comply with a notice served under sub section (4) of section 22 or section 24 or sub section (3) of sec-section 31, or

(*b*) any person who holds or may subsequently hold any money for or on account of such assessee, to pay into the Government Treasury in the manner specified in the notice issued under this sub-section either forthwith or upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount of tax due from the assessee or penalty or both, as the case may be, under this Act or the whole of the money when it is equal to or less than that amount

(2) The authority issuing a notice under sub section (1) may at any time, or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice

(3) Any person making any payment in compliance with a notice issued under sub section (1) shall be deemed to have made the payment under the authority of the assessee and the receipt from the Government Treasury shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the amount specified in the receipt

(4) Any person discharging any liability to the assessee after service on him of the notice issued under sub section (1) shall, if the liability is discharged in any manner other than that required in the said notice, be personally liable to the State Government to the extent of the liability so discharged or to the extent of liability of the assessee of tax or penalty or both, whichever is less

(5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the authority who issued the notice that the money demanded or any part thereof was not due to the assessee or that he did not hold any money for or on account of the assessee, at the time the notice was served on him, nor is the money demanded or any part thereof likely to become due to the assessee or be held for or on account of the assessee, nothing contained in this section shall be deemed to require such pe[illegible] pay into the Government Treasury any [illegible] part thereof, as the case may be

(6) Any amount of money
to pay under sub-section (1) or

liable to the State Government under sub-section (4) shall, if it remains unpaid, be recoverable as an arrear of land revenue :

Provided that nothing in this section shall operate to affect any action that may have been taken or prevent any action that may be or is being taken under section 36 for recovery from the assessee direct of the amount due from him.

(7) No action shall be taken under this section in respect of any amount of tax or penalty the realisation of which has been stayed under the order of an authority competent to grant stay under this Act.]

Recovery of penalties.

37. Any sum imposed by way of penalty under the provisions of section 21 or section 36 shall be recoverable in the manner provided in this Chapter for the recovery of an arrear of tax.

Right, title and interest of a member of Hindu undivided family or of other persons on whose behalf property is held to pass to the purchaser when property is sold for realization of arrears of tax.

38. (1) Where any property of a Hindu undivided family is sold for the realization of arrears of agricultural income-tax, the right, title and interest of all members of such family in the property shall pass to the purchaser.

(2) Where any person has been assessed to agricultural income tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrear, the land so held by him may be attached and sold for the realization of such arrears, and on such sale, the right, title and interest of such persons in the said land shall pass to the purchaser.

CHAPTER VI

OFFENCES AND PENALTIES

False statement in declaration.

39. If any person makes a statement in a verification mentioned in section 19 or section 25 or 26 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code. XLV o

Prosecution to be at the instance of the Commissioner.

40. (1) A person shall not be proceeded against for an offence under section 39 except at the instance of the [1][Commissioner].

(2) Before instituting proceedings against any person under sub-section (1), the [1][Commissioner] shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The [1][Commissioner] may stay any such proceeding or compound any such offence.

[1] Subs. by Orissa Act 21 of 1957.

41. If any person fails, without reasonable cause or excuse to furnish in due time any of the returns mentioned in section 19 or section 34, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

Failure to furnish returns or to supply information.

[[1]41-A (1) All particulars contained in any statement made, return furnished, or accounts or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding or any proceeding relating to the recovery of a demand prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof

Disclosure of information by a public servant.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, document evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine

(3) Nothing in this section shall apply to the disclosure—

V of 1860.

(a) of any such particulars for the purpose of a prosecution under the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or

(b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or

(c) of any such particulars occasioned by the lawful employment under this Act, of any process for the service of any notice or the recovery of any demand or

(d) of such facts, to an officer of the Central Government, may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it under the Indian Income-tax Act, 1922

of 1922

(4) No prosecution shall be instituted under this section except with the previous sanction of the [2][C^

[1] Inserted by Orissa Act I of 1950.

[2] Subs by Orissa Act 21 of 1957

CHAPTER VII

MISCELLANEOUS

Place of assessment.

42. (1) An assessee shall subject to any orders passed under sub-section (2) be assessed at the headquarters of the district in which is situated the land from which the greater part of the agricultural income in respect of which he is assessed is derived.

(2) (*a*) An assessee may, on receipt of the first notice served on him under sub-section (2) of section 19 apply to [1][any income tax authority appointed under sub-section (3) of section 18] by whom such notice is served to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the [2][State] of Orissa and such [1][any income tax authority appointed under sub-section (3) of section 18] may pass an order that the assessee shall be assessed at the place specified in the application, or refer the matter to the [1][Commissioner] whose decision shall be final.

(*b*) Where an order is passed under clause (*a*) of sub-section (2), the assessee shall not be entitled to make any further application to change his place of assessment :

Provided that [1][any income tax authority appointed under sub-section (3) of section 18] may allow the assessee to be assessed at any other place upon such conditions as he thinks fit.

(3) Notwithstanding anything contained in this section every [1][any income tax authority appointed under sub-section (3) of section 18] shall have all the powers conferred by or under this Act on [1][any income tax authority appointed under sub-section (3) of section 18] in respect of any agricultural income derived from land situated within the area to which he is appointed.

Bar of suits in civil courts.

43. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the [2][Government] for anything in good faith done or intended to be done under this Act.

Computation of periods of limitation.

44. In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Appearance by authorised representative.

45. Any assessee, who is entitled or required to attend before any income tax authority in connection with any proceeding under this Act, may attend either in person or by any person authorised by him in writing in this behalf.

[1] Subs. by Orissa Act 21 of 1957.

[2] Subs. by A. L. O. 1950.

46. A receipt shall be given for any money paid or recovered under this Act — Receipts to be given.

47. (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 — Service of notice — *f 1908*

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager, or any adult male member of the family, and, in the case of any other association of individuals, be addressed to the principal officer thereof, and any such notice or requisition so addressed shall be deemed to be a notice or requisition to the firm, family or association of individuals, as the case may be

48. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof — Indemnity

49. Nothing in this Act shall be deemed to authorise any agricultural income tax authority to call for any papers or documents for the purpose of ascertaining agricultural income or for any other purpose under this Act except the papers noted below — — Powers of income tax authorities to call for papers or documents.

(*a*) papers showing the amount of rent which accrued due in the previous year ,

(*b*) papers showing the actual receipt of agricultural income by an assessee in the previous year ,

(*c*) ledgers showing the actual expenditure incurred for which a deduction or exemption is claimed under this Act ,

(*d*) original vouchers supporting the items of expenditure referred to in clause (*c*) , and

(*e*) any other paper relevant to the ascertaining of [illegible] actual income of an assessee or verification of [illegible] for deduction made by an assessee

50. (1) The [1][State] Government may, after [illegible] vious publication, make rules for carrying out the [illegible] of this Act, and such rules may be made for the [illegible] the [1][State] or for such part thereof as may be [illegible]

(2) In particular, and without prejudice to [illegible] of the foregoing power, such rules may —

(*a*) prescribe the manner in which the [illegible] land referred to in sub-section (1) [illegible] be calculated ,

(*b*) prescribe the manner of serv[illegible] non-resident person under secti[illegible]

[1] Subs. by A L. O 1950

(*c*) prescribe the powers and duties of Agricultural income-tax authorities appointed under sub-section (3)[1] of section 18, the relation of such authorities to each other and the conditions of service of such authorities ;

(*d*) prescribe the date on or before which returns shall be submitted under sub-section (1) of section 19, the form of such returns and the manner in which they shall be verified ;

(*e*) prescribe the period within which returns referred to in sub-section (2) of section 19 shall be submitted, the form of such returns and the manner in which they shall be verified ;

(*f*) prescribe the form of the notice of demand mentioned in section 24;

(*g*) prescribe the authority to whom appeals may be preferred under sub-section (1) of section 25 or 26 the period, not being less than thirty days, within which such appeals shall be presented, the form of such appeals and the manner in which they shall be verified ;

(*h*) prescribe the fee mentioned in sub-section (2) of section 29 ;

(*i*) prescribe the form of the notice of demand mentioned in sub-section (3) of section 31 ;

(*j*) prescribe the method by which the assessment of agricultural income as determined under section 6 or section 7 shall be made in the case of an assessee who does not reside in the [2][State] of Orissa or of an assessee who resides in the [2][State] of Orissa and is temporarily absent therefrom;

(*k*) prescribe the manner in which the tax payable by an assessee who has died since the date of the assessment made on him shall be payable.

(*l*) prescribe the manner in which the tax shall be payable where the assessment is made on the agricultural income of a Hindu undivided family and a partition of the property of such family has been effected after the date of such assessment;

(*m*) provide for the circumstances in which refunds of the tax paid under this Act shall be made and the manner in which such refunds shall be made ; and

(*n*) provide for any other matter which by Act has to be or may be prescribed.

[3][(*o*) disposal of business by the Agricultural Income-tax Tribunal and the Additional Agricultural Income-tax Tribunal.]

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1 Subs. by Orissa Act 21 of 1957.

2 Subs. by A. L. O. 1950.

3 Inserted by Orissa Act 21 of 1957.

Section 13 of Act 21 of 1957 —

13. *Savings* —(1) Notwithstanding anything contained in the said Act as amended by this

(i) any matter pending in revision or appeal or any application for reference before the Board of Revenue under the said Act or the rules made thereunder on date of commencement of this Act or any reference arising out of any order passed in such revision shall be heard and dealt with by the Board of Revenue as if this Act had not been passed,

(ii) any matter pending in revision under the said Act or the rules made thereunder before the Collectors of Agricultural Income tax on the date of commencement of this Act shall stand transferred to the Agricultural Income tax Tribunal or Additional Agricultural Income tax Tribunal as the case may be for disposal in accordance with the provisions of *section 26 of the said Act as amended by this Act*

(2) If any doubt or difficulty arises in giving effect to the provisions of this Act, particularly lation to the ascertainment of specification of the corresponding agricultural income-tax autho- or the assignment or discharge of their respective duties and responsibilities under the

SCHEDULE

[*See* Sections 3 and 10]

Rates of Agricultural Income-tax

	Rate
A. In the case of every person other than a Hindu undivided family consisting of brothers only :—	
(*a*) On the first three thousand rupees of the total agricultural income.	[1][Nil.
(*b*) On the next two thousand rupees of the total agricultural income.	Three per centum[1]
(*c*) On the next five thousand rupees of the total agricultural income.	Six per centum
(*d*) On the next five thousand rupees of the total agricultural income.	Nine per centum
(*e*) On the next five thousand rupees of the total agricultural income.	Sixteen per centum
(*f*) On the next five thousand rupees of the total agricultural income.	Twenty-two per centum
(*g*) On the next five thousand rupees of the total agricultural income.	Twenty-nine per centum
(*h*) On the next five thousand rupees of the total agricultural income.	Thirty-six per centum
(*i*) On the next five thousand rupees of the total agricultural income.	Forty-four per centum
(*j*) On the next fifteen thousand rupees of the total agricultural income.	Fifty per centum
(*k*) On the next fifteen thousand rupees of the total agricultural income.	Sixty-two per centum
(*l*) On the next fifteen thousand rupees of the total agricultural income.	Sixty-nine per centum
(*m*) On the next fifteen thousand rupees of the total agricultural income.	Seventy-two per centum
(*n*) On the next fifteen thousand rupees of the total agricultural income.	Seventy-five per centum
(*o*) On the balance of the total agricultural income . .	Seventy-eight per centum
B. In the case of every Hindu undivided family consisting of brothers only :—	
(*a*) If the share of a brother is five thousand rupees or less	Two per centum.
(*b*) If the share of a brother exceeds five thousand rupees .	The average rate applicable to the share of such brother if he were assessed as an individual]:

Provided that—

(*i*) no agricultural income-tax shall be payable on a total agricultural income which does not exceed *five thousand rupees*;

(*ii*) on any total agricultural income below *ten thousand rupees*, the agricultural income-tax payable shall not be more than half the amount by which the said total agricultural income exceeds five thousand rupees; and

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[1] Rate substituted by Orissa Act 2 of 1958.

iii) the agricultural income tax payable for the year 1950 51 shall, in no case exceed ax payable under the said Schedule as it stood on the first day of April 1950 by more than alf of the difference between the tax payable under the said Schedule and the Schedule tood on the said date

Explanation —For the purposes of this Schedule—

i) 'brother' includes the son and the son of a son of a brother and the widow of a brother,

ii) 'share of a brother' means the portion of the total agricultural income of a Hindu ided family which would have been allotted to a brother if a partition of the property of amily had been made on the last day of the previous year , and

iii) 'average rate' means the amount of agricultural income-tax payable by an individual total agricultural income divided by the amount of such total agricultural income.

THE RAJASTHAN AGRICULTURAL INCOME-TAX* ACT, 1953

[ACT No. XXIII OF 1953]

An Act to provide for the levy of a tax on agricultural income derived from land situated in the State of Rajasthan.

WHEREAS it is expedient to provide for the levy of a tax on agricultural income derived from land situated in the State of Rajasthan ;

BE it enacted by the Rajasthan State Legislature as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Rajasthan Agricultural Income-tax Act, 1953.

(2) It extends to the whole of the [1][Pre-reorganisation State of Rajasthan].

(3) It shall be deemed to have come into force on the first day of April, 1953.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "agricultural income" means—

(i) [2]any rent or revenue derived from land which is used for agricultural purposes [1][and is either assessed to land revenue in the taxable territories or subject to a local rate assessed and collected by officers of the Government as such] ;

(ii) any income derived from such land by—

(a) agriculture, or

(b) the performance by a cultivator or a receiver of rent or revenue in kind of any process ordinarily employed by a cultivator or a receiver of rent or revenue in kind to render the produce raised or received by him fit to be taken to market, or

*The Act also applies to Sironj region, Madhya Pradesh. Extended to the whole of the State of Rajasthan, *vide* Rajasthan Laws Extension Act, 1957 (Act 27 of 1957).

1 Sub. by Rajasthan A. O. 1956 (w. e. f. 1-11-56).

2 Inserted as per Rajasthan Agricultural Income-tax (Amendment) Act, 1954.

(c) the sale by a cultivator or a receiver of rent or revenue in kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in sub clause (b) ,

(iii) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent, or revenue in kind of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (b) and (c) of clause (ii) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent or revenue in kind by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building ,

(2) "Agricultural income-tax" means the tax payable under this Act;

(3) " Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under section 30;

(4) "assessee" means a person by whom agricultural income-tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the loss sustained by him or of the amount of refund due to him

(5) "Assistant Commissioner" means a person appointed as Assistant Commissioner of Agricultural Income-tax under section 30;

(6) "business" has the same meaning as in the Indian Partnership Act, 1932 ,

(7) "capital asset" means property of any kind held by an assessee, whether or not connected with his business, profession or vocation but does not include—

(i) any stock in-trade, consumable stores or raw materials held for the purposes of his business, profession or vocation, or

(ii) personal effects, that is to say, movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him;

(8) "Commissioner" [1][or "Additional Commissioner"] means a person appointed to be the Commissioner of Agricultural Income-tax under section 30;

[1]Inserted as per Rajasthan Agricultural Income-tax ('
on 11-4-1956

(9) "Company" means a company as defined in the Indian Companies Act, 1953, incorporated or registered under any law for the time being in force in the [1][Pre-reorganisation State of Rajasthan] or elsewhere and includes any foreign association whether incorporated or not which the State Government may, by general or special order, declare to be a company for the purposes of this Act;

(10) "Dividend" includes—

(*i*) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its share-holders of all or any of the assets of the company;

(*ii*) any distribution by a company of debentures or debenture-stock to the extent to which the company possesses accumulated profits whether capitalized or not;

(*iii*) any distribution made to the share-holder of a company out of accumulated profits of the company on the liquidation of the company :

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included, and

(*iv*) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits whether such accumulated profits have been capitalized or not :

Provided that "dividend" does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (iii) or (iv);

Explanation—The words "accumulated profits" wherever they occur in this clause shall not include "capital gains".

(11) "financial year" means a year beginning on the first day of April and ending on the 31st day of March next following;

(12) "Firm", "Partner" and "Partnership" have the same meanings as in the Indian Partnership Act, 1932, but the expression "partner" shall also include any person who, being a minor, has been admitted to the benefits of partnership;

(13) "Hindu undivided family" means a Hindu undivided family governed by the Mitakshara school of Hindu law ;

(14) "Landlord" means any person who receives or is entitled to receive rent, revenue or other due for or on account of land either in cash or in kind;

[1] Subs. by Rajasthan A. O. 1956 (w. e. f. 1-11-56).

(15) "Person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu family, a firm, a company, an association of individuals, whether incorporated or not, and any institution capable of holding property ;

(16) "Prescribed" means prescribed by rules made under this Act,

(17) "Previous year" means—

(i) the twelve months ending on the 31st day of March preceding the year for which the assessment is to be made, or if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have been so made up,

(ii) such period as may be determined by the Commissioner in the particular case of any person or class of persons,

(iii) in the case of income which is partially agricultural income and partially income chargeable under the Indian Income tax Act, 1922, under the head "Business" and the business concerned has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of such business to the 31st day of March next following, or to the last day of the period determined under sub clause (ii), or, if the accounts of the assessee are made up to some other date than the 31st day of March and the case is not one for which a period has been determined by the Commissioner under sub clause (ii), then, at the option of the assessee, the period from the date of the setting up of such business to such other date

Provided that when such other date does not fall between the setting up of such business and the next following 31st day of March it shall be deemed that there is no previous year

Provided further that where in this clause an option is exercisable by the assessee it shall not be exercisable by the assessee more than once except with the consent of the Agricultural Income tax Officer and upon such conditions as such officer may think fit

Provided further that where in this
is exercisable by the assessee
sed after he has exercised such

exercised by him again so as to vary the meaning of the expression "previous year" as then applicable except with the consent of the Agricultural Income-tax Officer :

Provided also that where the assessee is a partner in a firm, the expression "previous year" in respect of his share of the agricultural income of the firm means the 'previous year' as determined for the assessment of the agricultural income of the firm;

(18) "Principal Officer" used with reference to a company or any public body or any association means—

(*i*) the Secretary, Treasurer, Manager or Agent of the company, body or association, or

(*ii*) any person connected with the company, body or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as the Principal Officer thereof ;

(19) " Public Servant" has the same meaning as in the Indian Penal Code ;

(20) "Received" used with reference to the receipt of agricultural income by a person shall include—

(*i*) receipt by an agent or servant on behalf of a principal or master respectively,

(*ii*) receipts by other persons which are deemed to be his receipts under the provisions of this Act,

and shall also include receipts of agricultural income by way of adjustment of accounts with any other person;

(21) "Registered firm" means a firm registered under the provisions of section 42;

(22) "Schedule" means a Schedule appended to this Act; [1][* * * * *]

(25) "Total Agricultural Income" means the aggregate of the amounts of agricultural income of the different classes specified in section 5 as determined respectively in the manner laid down in this Act;

(26) "Unregistered firm" means a firm which is not a registered firm; and

(27) "Written down value" means in respect of any irrigation or protective work, or any machinery, plant or other capital asset,—

(*i*) in the case of works constructed or assets acquired in the previous year, the actual cost to the assessee,

(*ii*) in the case of works constructed or assets acquired before the previous year, the actual cost to the assessee less all depreciation allowable to him under this Act in respect of such work, machinery, plant or other asset, as the case may be.

[1] Omitted by the Schedule of Rajasthan Act 27 of 1957.

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of Agricultural Income-tax.

3 Agricultural Income tax shall be charged for each financial year in accordance with and subject to the provisions of this Act on the total agricultural income of the previous year of every person

Provided that agricultural income tax shall not be charged on the agricultural income of the Central Government or any State Government

Limits of taxable income and rates of tax

4 Agricultural income tax shall be payable by a person whose total agricultural income of the previous year exceeds Rs [1][4,000] at such rate or rates as may be laid down from year to year by the annual Finance Act

Provided that the tax at the rate or rates specified in the First Schedule shall be charged on the total agricultural income accruing to every person during the financial year commencing on the 1st April, 1953

Provided further that in the case of an individual or Hindu undivided family whose only source of agricultural income is the land possessed by such individual or family and cultivated by such individual or the members of such family, as the case may be, with or without the aid of hired labourers, no agricultural income tax shall be payable by such individual or family on the agricultural income derived from such land if the cultivated area of such land does not exceed [1][40] acres of irrigated land or [1][120] acres of unirrigated land

Explanation—Where any such individual or family possesses and cultivates land, partly irrigated and partly unirrigated one acre of irrigated land shall, for the purposes of the second proviso, be deemed to be equivalent to three acres of unirrigated land

Total agricultural income

5 Subject to the provisions of this Act, the total agricultural income of any previous year of any person comprises all agricultural income derived from land situated within the State and received by him within or without the State but does not include—

(*a*) any agricultural income derived from land situated without the State,

(*b*) any agricultural income derived from property held under a trust or other legal obligation solely for religious or charitable purposes, insofar as such income is applied to such religious or charitable purpose only and in the case of a property so held in part only for such purposes, [illegible] or finally set apart for applicati

[1] Inserted *vide* Finance (Agricultural [illegible] (i [illegible] on 5th June 1957

Explanation.—In this section "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

CHAPTER III

COMPUTATION OF AGRICULTURAL INCOME-TAX, DEDUCTIONS AND ALLOWANCES

Determination of agricultural income mentioned in clause (1) (i) of section 2.

6. The agricultural income mentioned in sub-clause (i) of clause (1) of section 2 shall be deemed to be the sum received by an assessee in the previous year on account of agricultural income mentioned in the said sub-clause (i) after making the following deductions:—

(*a*) the sum actually paid and payable in and for the previous year by the assessee as rent or revenue or other due or charge to the State Government or to a landlord, as the case may be, in respect of the land from which such agricultural income is derived;

(*b*) the sum paid and payable by the assessee in and for the previous year in respect of such land as a local cess or rate collected under any law for the time being in force in [1][Pre-reorganisation State of Rajasthan];

(*c*) a sum equal to 15 per cent of the total amount of rent, or revenue or other due which accrued to an assessee in the previous year in respect of the cost of collection of such rent, or revenue or other due including the cost of maintenance of any Katcheri and any expenses incurred in litigation :

Provided that, in the case of an assessee who can produce his accounts audited and certified to be correct by an accountant, and at the option of such assessee recorded in writing the allowance shall be, instead of such sum, the actual cost of collection incurred during the previous year as determined by the Agricultural Income-tax Officer on the basis of such accounts, subject to a maximum equal to twenty per cent of the total amount of rent, or revenue or other due which accrued to him in the previous year in respect of the land for which such rent, or revenue or other due is derived :

Explanation.—'Accountant' in this proviso has the same meaning as in clause (iii) of sub-section (2) of section 81 and includes the Accountant-General, Rajasthan, and any person auditing accounts under his direction and control :

Provided further that the assessee, having once exercised the option to claim the actual cost on the basis of his accounts as the allowance admissible as aforesaid, shall not be entitled in any future year to claim instead the alternative allowance admissible except with the previous sanction of the Assistant Commissioner ;

[1] Subs. by Rajasthan A. O. 1956 (w. e. f. 1-11-56).

(*d*) any expense incurred by the assessee on the maintenance of any irrigation or protective work constructed exclusively for the benefit of the land from which such agricultural income is derived,

(*e*) any expense incurred by the assessee in the previous year on maintenance of any capital asset purchased or constructed for the benefit of the land from which such agricultural income is derived or for the collection of rent or revenue or other due in respect thereof,

(*f*) depreciation at the prescribed percentage on the written down value of any irrigation or protective work, building machinery, plant or other capital asset constructed, purchased or acquired exclusively for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income therefrom

Provided that the prescribed particulars have been duly furnished

Provided further that the aggregate of all depreciation allowances made under this Act shall in no case exceed the original cost of the assessee,

(*g*) any interest paid by the assessee in the previous year in respect of—

(i) any mortgage or other charge to which the land from which such agricultural income is derived, or to which the interest of the assessee in such land is subject, or

(ii) any debt, whether secured or not, incurred for or spent on any irrigation or protective work, building, machinery, plant or other capital asset such as is referred to in the preceding clause,

(*h*) any sum paid by the assessee in the previous year as premium in order to effect any insurance against loss of or damage to such land or any crops to be raised or cattle to be reared thereon or any asset required for obtaining such agricultural income or from which it is derived

Provided that any amount received in respect of such insurance shall be deemed to be agricultural income for the purposes of this Act and shall be liable to agricultural income tax after deducting the portion thereof, if any which has been assessed to income-tax under the Indian Income tax Act, 1922,

(i) where the rent or revenue or other due from such land is derived in kind the cost incurred by the assessee—

(i) in performing any process contemplated in items (b) and (c) of sub clause (ii) of cl[illegible] 2 for rendering the produce w[illegible]

rent or revenue or other due fit to be taken to market ;

(*ii*) in transporting such produce to market ;

(*iii*) in maintaining in good repair any agricultural implements or machinery and in providing for the upkeep of cattle for the purpose of such process or transport;

(*j*) any other expenditure incurred by the assessee, not being in the nature of capital expenditure or personal expenditure, laid out wholly or exclusively for the purpose of deriving such agricultural income from such land.

Explanation.—Maintenance includes current repairs and includes also in the case of protective dykes and embankments all such works as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes.

Determination of agricultural income mentioned in clauses (1) (ii) and (iii) of section 2.

7. (1) The agricultural income mentioned in sub-clauses (ii) and (iii) of clause (1) of section 2 shall be deemed to be the sum received by an assessee in the previous year on account of agricultural income mentioned in the said sub-clauses after making the following deductions:—

(*a*) the deductions specified in section 6 so far as they may be applicable ;

(*b*) any rate paid to a local authority or as a special rate in respect of any building used exclusively for the purpose of the cultivation of the land from which such agricultural income is derived ;

(*c*) any sum paid in respect of the land from which such agricultural income is derived by way of water cess or tax or rate in accordance with any law or rules for the time being in force ;

(*d*) the cost incurred by the assessee in the previous year—

(*i*) in cultivating such land or raising livestock thereon ;

(*ii*) in performing any process contemplated in items (b) and (c) of sub-clause (ii) of clause (1) of section 2 for rendering the produce of such land fit to be taken to market ;

(*iii*) in transporting such produce or livestock to market ; and

(*iv*) in maintaining agricultural implements and machinery in good repair and in providing for the upkeep of cattle for the purpose of such cultivation, process and transport ;

(*e*) any tax, cess or rate paid under any law in force in [1][Pre-reorganisation State of Rajasthan] on the cultivation or sale of the crop from which such agricultural income is derived ;

Subs. by Rajasthan A. O. 1956 (w. e. f. 1-11-56).

(*f*) in respect of any machinery or plant used exclusively for agricultural purposes which has been sold or discarded, the amount by which the written down value of the machinery or plant so sold or discarded exceeds the amount for which the machinery or plant is actually sold or its scrap value

Provided that such amount is actually written off in the books of the assessee,

(*g*) the cost incurred in the previous year in the purchase or replacement of cattle or implements which are necessary for cultivation to such extent as may be prescribed less the amount realised by the sale of the cattle or implements replaced or their estimated value ,

(*h*) any expense incurred in the previous year on the maintenance of any capital asset if such maintenance is required for the purpose of deriving such agricultural income ,

(*i*) any other deductions that may be prescribed

(2) In the case of agricultural income derived from land possessed by an individual or a Hindu undivided family and cultivated by such individual or by the members of such family with or without the aid of servants or hired labourers or of both the allowance admissible as costs in respect of matters specified in sub clauses (i) and (ii) of clause (d) of sub section (1) shall be a sum equal to fifty per centum of the market value of the produce raised from such land

Computation of tax on mixed income

8 (1) In the case of income which is partially agricultural income assessable under this Act and partially income chargeable under the Indian Income-tax Act, 1922, under the head "Business" agricultural income tax shall be payable by an assessee in respect of the market value determined in the manner prescribed of any agricultural produce which has been raised by the assessee or received by him as rent, or revenue or other due in kind and which has been utilised as raw material in such business or the sale proceeds of which are included in the accounts of the business, subject to any allowance which may be permissible under the provisions of this Act

Provided that,—

(*a*) where, for the purposes of the assessment of income-tax under the Indian Income-tax Act, 1922, the market value of the said produce has been determined the market value as so determined shall be taken to be the market value for the purposes of this sub-section,

(*b*) where there is a common charge on both agricultural income assessable under this Act and income chargeable under the Indian Income tax, Act such charge is an allowance permissib this Act and the Indian Income tax

if for the purposes of the Indian Income-tax Act 1922, the part of such charge which is to be deemed to be the allowance permissible under that Act has been determined under that Act, the remaining part of such charge shall be deemed to be the allowance to which agricultural income assessable under this Act is subject.

(2) For the purpose of the assessment of agricultural income-tax under this section or any rule made thereunder a certified copy of an order of an assessment under the Indian Income-tax Act, 1922, or a certified copy of an order of any appellate or revising authority or of the High Court or the Supreme Court altering or amending such order of assessment under the provisions of that Act shall be conclusive evidence of the contents of such order.

Assessment of a Hindu undivided family.

9. The total agricultural income of a Hindu undivided family shall be treated as the income of one individual and assessed as such :

Provided that if a Hindu undivided family consists—

(*i*) of brothers only, or

(*ii*) of a brother or brothers and the son or sons of a brother or brothers, or

(*iii*) of a brother or brothers and the son or sons of a brother or brothers of the father, or

(*iv*) of a brother or brothers, the son or sons of a brother or brothers and the son or sons of a brother or brothers of the father,

the total agricultural income of the family shall be assessed—

(*a*) at the rate applicable to the share of a brother, if such share exceeds Rs. [1][4,000];

(*b*) at the lowest rate specified in the Annual Finance Act for the time being in force or six pies in the rupee for the year commencing on the 1st April, 1953, if the share of a brother is Rs. [1][4,000] or less.

Explanation.—For the purposes of this section,—

(1) the expression "share of a brother" means the portion of the total agricultural income of a Hindu undivided family, which would have been allotted to a brother, if a partition of the property of such family had been effected according to the ordinary rule of Hindu law applicable to such family on the day before the assessment is made; and

(2) 'son' includes a son's son but does not include the son's son of a brother or brothers of the father.

[1] Substituted by Rajasthan Act 18 of 1957.

Assessment of income derived from land partly within State and partly without

10. Where agricultural income is derived from lands situated partly within the State and partly without the State, agricultural income tax shall be levied under this Act —

(i) where the portion of such income attributable to the lands situated within the State can be determined from the accounts maintained by the assessee on the portion so determined,

(ii) where the portion of the income so attributable can not be determined by the method specified in clause (i) on such portion as may be determined in the prescribed manner

Computation of allowances where estates extend beyond Pre reorganisation State of Rajasthan

11. Where an allowance admissible under sections 6, 7 and 8 is in respect of a common payment made for the purpose of deriving agricultural income from land part of which is within and part, without [1][Pre reorganisation State of Rajasthan], such allowance shall be calculated at such proportion of the common payment as the agricultural income derived from the land within [1][Pre reorganisation State of Rajasthan] bears to the agricultural income derived from all the land both within and without [1][Pre reorganisation state of Rajasthan] in respect of which such common payment is made

Method of accounting

12 Agricultural income shall be computed for the purposes of this Act in accordance with the method of accounting regularly employed by the assessee

Provided that if no method of accounting has been regularly employed by the assessee or if the method employed is such that in the opinion of the Agricultural Income tax Officer the agricultural income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as he may determine

Inclusions to prevent evasion of taxes

13. In computing the total agricultural income of any individual for the purpose of assessment there shall be included—

(a) so much of the total agricultural income of a wife or a minor child of such individual as arises directly or indirectly—

(i) from the membership of the wife in a firm of which her husband is a partner,

(ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner,

(iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart,

(iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration, and

(b) so much of the total agricultural [illegible] son or association of persons as ari[illegible]

[1]Sub. by Rajasthan A O 1956 (w e. f 1-11-56)

transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

Exemptions from assessment of tax.

14. Agricultural income-tax shall not, subject to the provisions of section 23, be payable on that part of the total agricultural income of a person which is—

(*a*) any dividend which any person receives as a shareholder out of the agricultural income of a company which has paid or will pay the tax in respect of the said agricultural income or any agricultural income which he receives as his share of agricultural income of a firm or association of individuals which has paid the tax in respect of the said agricultural income;

(*b*) any sum which he receives as a member of a Hindu undivided family, the agricultural income of which has already been taxed;

(*c*) any sum paid by such person—

(*i*) [1][to effect an insurance on the life of such person or on the life of a wife or husband] or minor child of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or minor child of such person or as a contribution to any provident fund to which Provident Funds Act, 1925, applies;

(*ii*) where the assessee is a Hindu undivided family, to effect an insurance on the life of any male member of such family or the wife or a minor child of any such member :

Provided that the aggregate of any sums exempted from assessment to agricultural income-tax under this clause shall not exceed one-sixth of the total agricultural income of the assessee :

Provided further, that agricultural income-tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable, if such deduction has not been made.

Prevention of double relief.

15. In computing the amount of any allowance or relief from assessment due under sections 6, 7, 8, or clause (c) of section 14 no part of such allowance or relief shall be included which constitutes a ground for relief from Indian Income-tax under the provisions of the Indian Income-tax Act, 1922.

Assessment of tenants-in-common.

16. In the case of persons holding property as tenants-in-common and deriving agricultural income, the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in-common.

Amount of tax when income partly exempt.

17. Where there is included in the total agricultural income of any assessee any income exempted from agricultural income-tax by or under the provisions of this Act the agricultural income-tax payable by the assessee shall be the

[1] Sub. by Rajasthan Act 20 of 1956.

...ad no part of it been exempted, the same pro... on the total agricul-
...n as the unexempted portion of the total agricultural
...e bears to the total agricultural income

... Agricultural income-tax payable by a person shall ...ase exceed half the amount by which his total agricul...ncome exceeds the maximum amount not chargeable ...ultural income-tax

Marginal adjustment of tax

CHAPTER IV

...ILITY TO ASSESSMENT IN SPEC...

... of manager ... ...istrator, executor, ...order of a Court or a written instrument is entitled ...on behalf of any person, the tax shall be levied ...d recoverable from the Court of Wards the Ad-...r General or the official trustee or from such ...administrator, executor, trustee, guardian or ...as the case may be, in like manner and to the ...nt as it would be leviable upon and recoverable ...erson on whose behalf such agricultural income is ...and all the provisions of this Act shall apply

Wards, Administrator General etc.

...ere the agricultural income received on behalf ...on by the Court of Wards, the Administrator ...e official trustee, any receiver, administrator, ...ustee, guardian or manager referred to in ...part only of the total agricultural income of ...the agricultural income tax payable under ...be assessed on the total agricultural income ...and the amount of tax so assessed shall be ...and recoverable from such trustee, receiver, ...ds, Administrator Genral, official trustee, ...executor, guardian or manager, as the ...and such person rateably accordingly to ...the total agricultural income of such person ...h trustee, receiver, Court of Wards, Adminis-...official trustee, administrator, executor, ...nager, as the case may be, and the portion ...h person

Rateable payment by guardian, trustee, etc.

...any case falling within the provisions of sec-...ny agricultural income or any part thereof is ...ceived on behalf of any one person or where ...ares of the persons on whose behalf such in-...are indeterminate or unknown, the tax ...d recoverable at the rate applic... the ...uch income

Residuary provisions for computation and recovery of tax under 9

...contained in section 19 ...ssessment of a person on ...e is received or the rec... h ...payable in respect of s... cl

Income from settlement or disposition.

22. In computing the total agricultural income of an assessee all agricultural income accruing to any person by virtue of a settlement or disposition, whether recoverable or not, and whether effected before or after the commencement of this Act, from assets remaining the property of the settler or disponer shall be deemed to be the agricultural income or the settler or disponer and all agricultural income arising to any person by virtue of a revocable transfer of assets shall be deemed to be the gricultural income of the transferor:

Provided that for the purpose of this section the settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the agricultural income or assets to the settler, disponer or transferor or in any way gives the settler, disponer or transferor a right to re-assume power directly or indirectly over the agricultural income or assets :

Provided further that the expression "settlement or disposition" shall, for the purposes of this section, include any disposition, trust, covenant, agreement or arrangement and the expression 'settler or disponer' in relation to a settlement or disposition shall include any person by whom the settlement or disposition is made :

Provided also that this section shall not apply to any agricultural income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the life-time of the person or from which agricultural income the settler or the disponer derives no direct or indirect benefit but that the settler shall be liable to be assessed on the said agricultural income as and when the power to revoke arises to him.

Tax deemed to be paid on other's behalf by companies, firms and associations.

23. A company, firm or other association of individuals which has paid agricultural income-tax under this Act in respect of its agricultural income as such company, firm or association shall be deemed for the purposes of section 65 to have paid agricultural income-tax on behalf of the shareholders of such company, the partners of such firm or the members of such association, as the case may be, on such part of the agricultural income of every individual shareholder, partner or member as represents the portion of the agricultural income of such company, firm or association which is received by such share-holder, partner or member.

Tax on company's dividend deemed to have been paid by share-holders.

24. Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to a share-holder of a company which is assessed to agricultural income-tax in [1][Pre-reorganisation State of Rajasthan] or elsewhere, the share-holder shall be deemed in respect of such dividend himself to have paid the agricultural income-tax (exclusive of super-tax) at the rate applicable to the total income of a company for the financial year preceding the year in which the dividend was paid, credited or distributed or is deemed to have been paid, credited or distributed.

[1] Sub. by Rajasthan A. O. 1956 (w. e. f. 1-11-56).

55 (1) Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to a share-holder of a company which has obtained any relief under this Act, the share-holder shall be deemed in respect of such dividend himself to have obtained such relief at the rate at which such relief has been granted in respect of agricultural income tax only to the company for the financial year preceding the year in which the dividend was paid, credited or distributed or is deemed to have been paid credited or distributed

Relief granted to a company to be deemed relief granted to share-holders

(2) If the rate at which a share-holder is deemed under sub section (1) to have obtained relief exceeds the rate at which he would have been entitled to relief had such relief been given direct to him by or under this Act, any excess shall be recovered from him either as an addition to the tax payable by him on any assessment made on him under this Act or by setting it off against any relief due to him under this Act

26 (1) Save as provided for in sections 22 to 25 if a person receives agricultural income derived from land and such income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of

Liability of person deriving agricultural income jointly for himself and others

be leviable upon and recoverable from such person in respect of such income

(2) Any person receiving agricultural income as referred to in sub-section (1) may, before paying to any beneficiary any share of such agricultural income to which such beneficiary is entitled, deduct from such share the amount of agricultural income-tax or its equivalent value in kind, if such share is paid in kind, rateably paid in respect of such share

Explanation —In this section "beneficiary" means a person entitled according to law, to a portion of the agricultural income derived from such land

27 Where agricultural income is received by a firm or association of individuals and the business of such firm or association is discontinued or such firm or association is dissolved, every person who was a partner of such firm or member of such association at the time of such discontinuance or dissolution shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association, and all the provisions of this Act shall, so far as may be, apply to such assessment

Liability in case of discontinued firms or associations

28 In the case of any person residing outside the State his total agricultural income shall be charged ' cultural income tax either in his name or in his agent and in the latter case such agent shall ' be, for all the purposes of this Act, the of such tax.

Non-…

Agent to include persons treated as such.

29. Any person employed by or on behalf of a person residing out of the State or through whom such non-resident person is in receipt of any agricultural income, upon whom the Agricultural Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of such non-resident person shall, for the purposes of this Act, be deemed to be such agent :

Provided that no person shall be deemed to be the agent of a non-resident person unless he has had an opportunity of being heard by the Agricultural Income-tax Officer as to his liability.

CHAPTER V

INCOME-TAX OFFICERS AND APPELLATE TRIBUNAL

Income-tax officers.

30. (1) There shall be the following classes of agricultural income-tax officers for the purposes of this Act, namely:—

(*a*) the Commissioner [1][and Additional Commissioner if any] of Agricultural Income-tax, Rajasthan ;

(*b*) Assistant Commissioners of Agricultural Income-tax, Rajasthan, and

(*c*) Agricultural Income-tax Officers.

(2) The officers specified in sub-section (1) shall be appointed by the State Government and shall, in respect of such areas as the State Government may, by notification in the [2][Official Gazette], determine, exercise the powers conferred and perform the duties imposed on them by this Act and by such rules as may be prescribed.

(3) The conditions of service of the officers specified in sub-section (1) and their relation with other officers shall be .uch as may be prescribed :

[1][Provided that the powers and duties of Additional Commissioner, whenever appointed shall be co-extensive with those of the Commissioner.]

(4) The State Government may, by notification in the [2][Official Gazette], empower any officer, other than the officers specified in sub-section (1), to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas as may be specified in the notification.

(5) The persons appointed as the officers specified in sub-section (1) shall be deemed to be public servants within the meaning of the Indian Penal Code.

Appellate Tribunal.

31. (1) The State Government shall, from time to time, appoint as and when may be necessary for the purpose of hearing appeals preferred under section 50 an appellate tribunal consisting of one or more members :

Provided that at least one member of the tribunal so appointed shall be a Judicial Officer who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of a

1 Inserted by Rajasthan Act 8 of 1956.

2 Substituted by Rajasthan Act 27 of 1957.

District Judge in [1][Pre reorganisation State of Rajasthan] or an advocate of at least 10 years standing

Provided further that where the Tribunal consists of two or more members, one member shall be an officer who has had considerable revenue experience and has been in the service of Government for not less than 10 years

(2) The appointment of any member of the Tribunal shall be for such period as the State Government may determine and the period so determined may be extended from time to time by the State Government for such further period or periods as the State Government may consider necessary

(3) The Judicial Member shall be the President of the Appellate Tribunal

(4) If the members of the Appellate Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority

Provided that where there is no such majority and the Members of the Appellate Tribunal are equally divided, the point on which they differ shall be decided according to the opinion thereon of the Assistant Commissioner from whose order the appeal before the Appellate Tribunal has been preferred

(5) Subject to the provisions of this Act the Appellate Tribunal shall have power to regulate its own procedure in all matters relating to the discharge of its functions

CHAPTER VI

MACHINERY OF ASSESSMENT

32 The Principal Officer of every company shall at the Certif

paid or will pay agricultural income tax on the agricultural income which is being distributed in the shape of dividend and specifying such other particulars as may be prescribed

33 The Principal Officer of every company shall, on or before the 15th day of June of each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, Supply formati gardin dends

ing year and of the amount so distributed to each share holder

34 (1) Every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income tax shall furnish to the Agricultural Income tax Officer so as to reach him before the 1st day of June every year, a return in Return Agricu Inc m

[1]Sub by Rajasthan A O 1956 (w e f 1-11-56)

the prescribed form and verified in the prescribed manner setting forth his total agricultural income during the previous year:

Provided that the Agricultural Income-tax Officer may, in his discretion, extend the date for the delivery of the return in the case of any person or class of persons and shall, in the case of agricultural income assessable under section 8, allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment order under the Indian Income-tax Act, 1922.

(2) In the case of any person whose total income is, in the Agricultural Income-tax Officer's opinion, of such an amount as to render such person liable to agricultural income-tax, the Agricultural Income-tax Officer may serve a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice a return in the prescribed form and verified in the prescribed manner setting forth, along with such other particulars as may be provided for in the notice, his total agricultural income during the previous year:

Provided that the Agricultural Income-tax Officer may, in his discretion, extend the date for the delivery of the return and shall in the case of agricultural income assessable under section 8 allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment order under the Indian Income-tax Act, 1922.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of these sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

(4) The Agricultural Income-tax Officer may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce or cause to be produced such accounts or documents as the Agricultural Income-tax Officer may require :

Provided that the Agricultural Income-tax Officer may on reasonable grounds and on application being made to him in this behalf allow such accounts or documents to be produced on a date later than that specified in the notice :

Provided further that the Agricultural Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

35. (1) If the Agricultural Income-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that a return made under section 34 is correct and complete, he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Agricultural Income tax Officer is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 34 is correct and complete, he shall serve on such person a notice requiring him, on a date to be therein specified, either to attend at the Agricultural Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be the Agricultural Income tax Officer, after hearing such evidence as such person may produce and such other evidence as the Agricutural Income tax Officer may require on specified point, shall by an order in writing assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such assessment

(4) If any person fails to make the return required by any notice given under sub section (2 of section 34 and has not made a return or a revised return under sub section (3) of the same section or fails to comply with all the terms of a notice issued under sub section (4) of the same section or, having made a return fails to comply with all the terms of a notice issued under sub section (2) of this section or fails to produce before the Agricultural Income tax Officer any order under the Indian Income tax Act 1922 or a certified copy thereof which may be necessary under the provisions of this Act for the purpose of enabling any assessment to be made under section 8 such officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment

(5) Notwithstanding anything contained in the fore going sub sections, when the assessee is a firm and the total income of the firm has been assessed under sub section (1), sub section (3) or sub section (4) as the case may be —

(a) in the case of a registered firm the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its agricultural income of the previous year, shall be assessed, and the sum payable by him on the basis of such assessment shall be determined

Provided that if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 36

Provided further, that when any of such partners is a person not resident in the State his share of the agricultural income of the firm shall be assessed on the firm at the rates which would be
were assessed on him personally
determined as payable shall be,

(*b*) in the case of an un-registered firm, the Agricultural Income-tax Officer may, instead of determining the sum payable by the firm itself, proceed in the manner laid down in clause (*a*) as applicable to a registered firm, if, in his opinion, the aggregate amount of the agricultural income-tax including the super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and partners individually if the firm were assessed as an un-registered firm.

Set off of loss in computing taxable agricultural income.

36. (1) Where in any year, it is computed that the sum on which agricultural income-tax is payable by the assessee is a negative quantity, the assessee shall be deemed to have sustained a loss and such loss shall be carried forward to the following year and set off against the sum on which agricultural income-tax is computed to be payable in that year, and if such loss cannot be wholly set off in that year the amount of such loss not so set off shall be carried forward in the same manner to the next following year and so on, but no amount of such loss shall be carried forward for more than six successive years.

(2) When in the course of an assessment of the total agricultural income of the assessee it is found that a loss has been sustained which he is entitled to set off under sub-section (1) the Agricultural Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him.

Power to assess individual members of certain ociations d compaes.

37. (1) Where the Agricultural Income-tax Officer is satisfied that any association of individuals other than a Hindu undivided family or a company is under the control of one member thereof and that such association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax or any member thereof, he may, with the previous approval of the Commissioner of Agricultural income-tax, pass an order that the sum payable as agricultural income-tax by the association shall not be determined, and thereupon the share of each member in the agricultural income of the association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation.—A member of an association who owns the whole or the major portion of the capital of the association shall not by reason only of that fact be deemed to control the association.

(2) Where the Agricultural Income-tax Officer is satisfied that in respect of any previous year the agricultural income distributed as dividend by any company upto the end of the sixth month after its accounts for that previous year are laid before the company in general meeting is less than sixty per cent of the assessable income of the company of that previous year as reduced by the amount of agricultural income-tax and super-tax payable by the company in respect thereof, he shall, unless he is satisfied that, having regard

to the losses incurred by the company in earlier years or to the smallness of the income made, the payment of a dividend or a larger dividend than that declared would be unreasonable, make with the previous approval of the Commissioner an order in writing that the undistributed portion of the assessable income of the company of that previous year as computed for purposes of agricultural income tax payable by the company in respect thereof shall be deemed to have been distributed as dividends amongst the share holders as at the date of the general meeting aforesaid, and thereupon the proportionate share thereof of each share holder shall be included in the total agricultural income of such shareholder for the purpose of assessing his total agricultural income

Provided that, when the reserves representing accumulations of past agricultural incomes which have not been the subject of an order under this sub section exceed the paid up capital of the company, together with any loan capital which is the property of the share holders, or the actual cost of the fixed assets of the company, whichever of these is greater this section shall apply as if instead of the words ' sixty per cent of the assessable income" the words ' one hundred per cent of the assessable income" were substituted

Provided further, that no order under this sub-section shall be made where the company has distributed not less than fifty five per cent of the assessable income of the company, unless the company, on receipt of a notice from the Agricultural Income tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its agricultural income so that the total distribution made is not less than sixty per cent of the assessable income of the company of the previous year concerned as reduced by the amount of the agricultural income-tax payable by the company in respect thereof

Provided further, that this sub-section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company if the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof

Explanation —For the purpose of this sub section a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent of the voting power have been allotted unconditionally to or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange or are in fact freely transferable by the holders members of the public.

(3) The Commissioner of Agricultural Income-tax shall not give his approval to any order proposed to be passed by the Agricultural Income-tax Officer under this section until he has given the association or company concerned an opportunity of being heard.

(4) (*i*) Where any member of an association of individuals makes default in the payment of tax on his share of income which has been included in his total agricultural income under the provisions of sub-section (1), such tax may be recovered from the association.

(*ii*) Where the proportionate share of any member of a company in the undistributed income of the company has been included in his total agricultural income under the provisions of sub-section (2), the tax payable in respect thereof shall be recoverable from the company if it cannot be recovered from such member.

(5) Where agricultural income tax is recoverable from a company or association under sub-section (4), a notice of demand shall be served upon it in the prescribed form showing the sum o payable and such company or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter VII.

(6) Where agricultural income-tax has been paid in respect of any undistributed agricultural income of a company under this section and such agricultural income is subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total agricultural income of that year.

(7) When a company is a share-holder deemed under sub-section (2) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be part of its total agricultural income for the purpose also of the application of that sub-section to distributions of agricultural income by that company.

Assessment in case of departure from the State.

38. (1) Where it appears to the Agricultural Income-tax Officer that any person intends to alienate his rights, title and interest in any land in the State and that such person may leave the State during the financial year or shortly after its expiry and that he has no present intention of returning, the Agricultural Income-tax Officer may proceed to assess him on his total agricultural income for the period from the expiry of the last previous year for which he has been assessed to the probable date of his departure from the State. For each completed previous year included in this period an assessment shall be made on the total agricultural income of such person at the rate at which it would have been charged had such income been fully assessed, and for the period from the expiry of the last of such previous years to the probable date of departure the Agricultural Income-tax Officer shall estimate the total agricultural income of such person and assess it at the rate applicable to the agricultural income in force for the financial year in which such assessment is made:

Provided that nothing herein contained shall authorise an Agricultural Income-tax Officer to assess any agricultural

income, which has escaped assessment or has been assessed at too low a rate, in respect of which he is debarred from issuing a notice under section 54

(2) For the purpose of making an assessment under sub-section (1) the Agricultural Income tax Officer may serve a notice upon such person requiring him to furnish within such time not being less than four days as may be specified in the notice a return in the same form and verified in the same manner as a return under sub-section (1) of section 34, setting forth, along with such other particulars as may be provided for in the notice, his total agricultural income for each of the completed previous years comprised in the period first referred to in sub section (1) and his estimated total agricultural income for the period from the expiry of the last such completed previous year to the probable date of his departure, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 34

39 Where a person in receipt of agricultural income from any land in the State is found to have transferred his interest in such land to another person the transferor and the transferee shall each be assessed in respect of his actual share, if any, of such agricultural income Assessment in the case transfer of right in land.

Provided that, when the transferor cannot be found, the assessment of such agricultural income of the previous year in which the transfer took place up to the date of the transfer and for the year preceding that year shall be made on the transferee in like manner and to the same amount as it would have been made on the transferor or when the tax in respect of the assessment made for any or all of such years assessed on the transferor cannot be recovered from him, it shall be payable by and recoverable from the transferee, and the transferee shall be entitled to recover from the transferor the amount of any tax so paid

40. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the agricultural income tax assessed as payable by such person, or any agricultural income tax which would have been payable by him under this Act if he had not died Tax of deceased person payable by representative

(2) Where a person dies before the submission of the return referred to in sub section (1) of section 34 or before he is served with a notice under sub-section (2) of section 34 or under section 54, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 34 or under

administrator or other legal representative were the assessee

(3) Where a person dies without having furnished a return which he is required to furnish under the provisions of section 34 or having furnished a return which the cultural Income-tax Officer has reason to believe

incorrect or incomplete the Agricultural Income-tax Officer may make an assessment of the total agricultural income of such person and determine the agricultural income-tax payable by him on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representatives of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 8, 34 and 36 have required from the deceased person.

Assessment in case of discontinued firm or association.

41. (1) Where agricultural income is received by a company, firm or association of individuals and the business through which such agricultural income is received by such company, firm or association is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the agricultural income so received in the previous year.

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of such discontinuance within thirty days thereof, and, where any person fails to give the notice required by this sub-section, the Agricultural Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or association of individuals up to the date of the discontinuance of its business.

(3) Where an assessment is to be made under sub-section (1) the Agricultural Income-tax Officer may serve on the person whose agricultural income is to be assessed or in the case of a firm on any person who was a member of such firm at the time of its discontinuance or in the case of a company, on the principal officer thereof, a notice containing all or any of te requirements which may be included in the notice under sub-section (2) of section 34 and the provisions of this Act, shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

Procedure in registration of firms.

42. (1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to agricultural income-tax or super-tax.

(2) The application shall be made by such person or persons and at such times and shall contain such particulars and shall be in such form, and be verified in such manner as may be prescribed; and it shall be dealt with by the Agricultural Income-tax Officer in such manner as may be prescribed.

Change in constitution of a firm or ownership of business

43. (1) Where, at the time of making an assessment under section 35, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted at the time of making the assessment

Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the partners, be apportioned between the partners who in such previous year were entitled to receive the same

Provided further that when the tax assessed upon a partner cannot be recovered from him it shall be recovered from the firm as constituted at the time of making the assessment

(2) Where a person carrying on any business in course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year

Provided that, when the person succeeded cannot be found the assessment of the agricultural income of the year in which the succession took place up to the date of succession and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding and such person shall be entitled to recover from the person succeeded the amount of any tax so paid

Assessment after partition of a Hindu undivided family

44. (1) Where, at the time of making an assessment under section 35, it is claimed by or on behalf of any member of a Hindu undivided family hitherto assessed as undivided that a partition has taken place among the members or groups of members of such family, the Agricultural Income-tax Officer shall make due inquiry thereinto, and, if a certified copy of a decree of a competent Civil Court, for partition of the joint family property or a document purporting to show that there is separate possession and enjoyment of such property is produced, and, in the case of a document other than a certified copy of a decree, the Agricultural Income tax Officer is satisfied that such document has been acted upon by the parties thereof or if the Agricultural Income tax Officer is otherwise satisfied that the Hindu undivided family has ceased to exist as such and the agricultural income is being enjoyed separately by the members or groups of the members of such family in definite shares he shall record an order to that effect

Provided that no such order shall be rece 1
notice of the inquiry has been served on all the
the family

(2) Where such an order has been passed, the Agricultural Income-tax Officer shall make an assessment of the total agricultural income received by or on behalf of the joint family as such, as if no partition had taken place, and each member or group of members shall, in addition to any agricultural income-tax for which he or it may be separately liable and notwithstanding anything contained in clause (*b*) of section 14, be liable for a share of the agricultural income-tax on the agricultural income so assessed according to the portion of the joint family property allotted to him or it ; and the Agricultural Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 35 :

Provided that all the members and groups of members whose joint family property has been partitioned during the previous year shall be liable jointly and severally for the agricultural income-tax assessed on the total agricultural income received by or on behalf of the joint family as such up to the date of partition.

(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family.

Cancellation of assessment where cause is shown.

45. Where an assessee within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Agricultural Income-tax Officer that he was prevented by sufficient cause from making the return required by section 34 or that he did not receive the notice issued under sub-section (2) or sub-section (4) of section 34 or under sub-section (2) of section 35, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of all or any of such notices, the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 35.

Penalty for concealment of income.

46. (1) If the Agricultural Income-tax Officer the Assistant Commissioner, the Commissioner or the Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

(*a*) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish by sub-section (1) of section 34 or by notice given under sub-section (2) of that section or under section 54 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or

(*b*) has without reasonable cause failed to comply with a notice under sub-section (4) of section 34 or sub-section (2) of section 35, or

(c) has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars of such income he or it may direct that such person shall pay by way of penalty in the case referred to in clause (a) in addition to the amount of the agricultural income tax payable by him a sum not exceeding that amount and in the cases referred to in clauses (b) and (c) in addition to any agricultural income tax payable by him, a sum not exceeding the amount of the agricultural income tax which would have been avoided if the income as returned by such person had been accepted as the correct agricultural income

Provided that—

(a) no penalty for failure to furnish the return of his total agricultural income shall be imposed on an assessee whose total agricultural income is less than six thousand rupees unless he has been served with a notice under sub section (2) of section 34,

(b) where a person has failed to comply with a notice under sub section (2) of section 34 or under section 54 and proves that he has no income liable to agricultural income tax the penalty imposable under this sub section shall be a penalty not exceeding twenty five rupees ,

(c) no penalty shall be imposed under this sub section upon any person not resident in the State for failure to furnish the return required under section 34 unless a notice under sub sect on (2) thereof or under section 54 has been served on him,

(d) when the person liable to penalty is a registered firm or an unregistered firm treated under clause (b) of sub section (5) of section 35 as a registered firm so that the amount of the agricultural income tax and supe tax payble by the firm itself has not been determined that mount shall be taken to be an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total agricultural income and in the cases referred to in clauses (b) and (c) the amount of the gricultural income tax and super tax wh ch would have been avo ded if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unreg tered firm on an income equal to the firm's total agricultural income and the amount of the tax pay ible by an tered firm on an income equal to the the firm as actually returned by the f

(2) If the Agricultural Income-tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, he or it may direct that such partner shall in addition to the agricultural income-tax and super-tax, if any, payable by him, pay by way of penalty a sum not exceeding the amount of agricultural income-tax and super-tax which has been avoided or would have been avoided if the income returned by such partner had been accepted as his correct income and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(3) No order shall be made against a person under sub-section (1) or sub-section (2) unless such person has been heard or has been given a reasonable opportunity of being heard.

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) When the Appellate Tribunal, the Commissioner or the Assistant Commissioner makes an order under sub-section (1) or sub-section (2) he shall forthwith send a copy of the same to the Agricultural Income-tax Officer concerned.

Notice of Demand.

47. When any agricultural income-tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Act.

48. (1) Any assessee objecting to the amount of agricultural income assessed under section 35 or section 45 or the amount of loss computed under section 36 or the amount of agricultural income-tax determined under section 35 or section 45 or denying his liability to be assessed under this Act or objecting to a refusal of an Agricultural Income-tax Officer to make a fresh assessment under section 45 or objecting to any order under sections 37, 41, 44, 45 or 46 made by an Agricultural Income-tax Officer or objecting to any order imposing any penalty by an Agricultural Income-tax Officer under sub-section (1) of section 62 or objecting to a refusal of an Agricultural Income-tax Officer to allow a claim to refund under section 64, 65 or 68 or the amount of the refund allowed by the Agricultural Income-tax Officer under any of those sections, may appeal to the Assistant Commissioner against the assessment or against such refusal or order:

Provided that no appeal hall lie against an order under *sub section (4) of section 35 or an order under sub section* (1) of section 62 unless th agricultural income tax has been paid

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to *the* assess ment or penalty objected to or of the intimation of the refusal to pass an o der under sub section (1) of section 44 or of the date of the refusal to make a fresh assessment under section 45 or of the intimation of an order under sections 64 65 or 68 as the case may be, but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

(3) *The appeal shall be in the prescribed form and shall* be verified in the prescribed manner

Hearing of appeals

49 (1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing

(2) The Assistant Commissioner may before disposing of any appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Agricultural Income tax Officer

(3) The Assistant Commissioner may at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable

(4) In disposing of an appeal the Assistant Commissioner may—

(*a*) in the case of an order of assessment—

(*i*) confirm, reduce, enhance or annul the assessment, or

(*ii*) set aside the sse sment and direct the Agricultural Income tax Officer to make a fresh assessment aft r making such further inquiry as the Agri ultural Income tax Officer thinks fit or the Assistant Commissioner may direct, and th Agricu tural Income tax Officer shall thereupon p oceed to make such fresh assessment and determine where necessary the amount of agricultural income tax payable on the ba is of such fresh assessment, or

(*b*) in the case of an order under section 64, section 65 or section 68, confirm, cancel or va y such order, or

(*c*) in the ca e of an order under sub- ect section 44, confirm such o der or either direct the Agricultural Inc

to make further inquiry and pass a fresh order to make an assessment in the manner laid down in sub-section (2) of section 44 ; or

(*d*) in the case of an order under section 46 or sub-section (1) of section 62 confirm or cancel such order or vary it so as either to enhance or reduce the penalty ; or

(*e*) in the case of an appeal against a computation of loss under section 30 confirm or vary such computation:

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty or reduce a refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or such reduction :

Provided further that at the hearing of any appeal against an order of an Agricultural Income-tax Officer the Agricultural Income-tax Officer shall have the right to be heard either in person or by a representative.

(5) The Assistant Commissioner shall on the conclusion of the appeal communicate the orders passed by him to the assessee and to the Commissioner.

Procedure of appeal to the Appellate Tribunal.

50. (1) Any assessee objecting to an order passed by the Assistant Commissioner under section 46 or section 49 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him.

(2) The Commissioner may, if he objects to an order passed by the Assistant Commissioner under section 49 direct the Agricultural Income-tax Officer to appeal to the Appellate Tribunal against such order and in such case the Agricultural Income-tax Officer shall make the appeal within sixty days from the date on which the order is communicated to the Commissioner by the Assistant Commissioner.

(3) The Appellate Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall except in the case of an appeal referred to in sub-section (2) be accompanied by a fee of twenty-five rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard pass such orders as it thinks fit and shall communicate such orders to the assessee and to the Commissioner.

(6) Save as provided in sections 86 to 88 the order passed by the Appellate Tribunal on appeal shall be final.

(7) Where an appeal is made to the Appellate Tribunal under this section the costs shall be in the discretion of the said Tribunal

51. Where as a result of an appeal under section 49 or section 50 any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may authorise the Agricultural Income tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association

Amendment of assessment in accordance with decision on appeal.

52. (1) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any Agricultural Income tax Officer and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act may pass such order thereon, not being an order prejudicial to the assessee as he thinks fit

Power of revisions by commissioner

Provided that the Commissioner shall not revise any order under this sub section if—

(*a*) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal the time within which such appeal may be made has not expired, or

(*b*) the order is pending on an appeal before the Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal, or

(*c*) the order has been made more than one year previously

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any Agricultural Income tax Officer made within one year from the date of the order, or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made and subject to the provisions of this Act, may pass such order thereon not being an order prejudicial to the assessee as he thinks fit

Provided that the Commissioner shall not revise any order under this sub section if—

(*a*) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal but has not been made the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal the assessee has not waived his right of appeal, or

(*b*) where an appeal against the order has been made to the Assistant Commissioner, the appeal is pending before the Assistant Co
or



(*c*) the order has been made the subject of an appeal to the Appellate Tribunal :

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(3) Every application by an assessee under sub-section (2) shall be accompanied by a fee of twenty-five rupees.

Power of Commissioner to revise Agricultural Income-tax Officer's orders.

53. (1) The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Agricultural Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment.

(2) No order shall be made under sub-section (1)—

(*a*) to revise an order of re-assessment made under the provisions of section 54 ; or

(*b*) after the expiry of two years from the date of the order sought to be revised.

(3) Any assessee objecting to an order passed by the Commissioner under sub-section (1) may appeal to the Appellate Tribunal within 60 days of the date on which the order is communicated to him.

(4) An appeal to the Appellate Tribunal under sub-section (3) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied with a fee of one hundred rupees and such appeal shall be dealt with in the same manner as if it were an appeal under section 50.

Income escaping assessment.

54. (1) If in consequence of definite information which has come into his possession the Agricultural Income-tax Officer discovers that agricultural income chargeable to agricultural income-tax has escaped assessment in any year or has been under-assessed or has been assessed at too low a rate, or has been the subject of excessive relief under this Act, the Agricultural Income-tax Officer may, at any time within [1][five years] of the end of that year serve on the person liable to pay agricultural income-tax on such agricultural income or in the case of a company on the principal officer of such company a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 34 and may proceed to assess or re-assess such agricultural income and the provisions of this Act, shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the agricultural income-tax shall be charged at the rate at which it would have been charged

[1]Substituted by Rajasthan Act 14 of 1959.

had the agricultural income not escaped assessment or full assessment, as the case may be

(2) No order of assessment under section 35 or of assessment or re assessment under sub section (1) of this section shall be made after the expiry of four years from the end of the year in which the agricultural income was first assessable

Provided that where a notice under sub section (1) has been issued within the time therein limited the assessment or re assessment to be made in pursuance of such notice may be made before the expiry of one year from the date of the service of the notice even if such period exceeds the period of four years

Provided further that nothing contained in this sub-section shall apply to a re assessment made under section 45 or to an assessment or re assessment made on the assessee or any other person in consequence of or to give effect to any finding or direction contained in an order under section 49 or section 50 or section 51 or section 52 or section 53 or section 86

55 (1) The authority which passed an order on appeals or in revision may at any time within three years from the date of such order and the Agricultural Income tax Officer may, at any time within three years from the date of any assessment order or refund order passed by him on his own motion rectify any mistake apparent from the record of the appeal, revision, assessment or refund, as the case may be and shall within the like period rectify any such mistake which has been brought to his notice by an assessee

Rectification of mistake

Provided that no such rectification shall be made, having the effect of enhancing an assessment or reducing a refund unless the appellate or revisional authority or the Agricultural Income tax Officer, as the case may be, has given a notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income tax Officer shall make any refund which may be due to such assessee

(3) Where the such rectification has the effect of enhancing any assessment or reducing a refund the Agricultural Income tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 47 and the provisions of this Act shall apply accordingly

(4) Any assessee objecting to any such rectification which has the effect of enhancing the assessment or reducing a refund may, within thirty days of receipt of the notice of demand referred to in sub-section (3), appeal—

(a) in the case where the rectification is made Agricultural Income-tax Officer, to the Commissioner and the provisions of sub

of section 48 and section 49 shall apply to every such appeal as if it were an appeal against an order of assessment under section 35 or an order of refund under section 64 or section 65, and

(b) in the case where the rectification is made by the Assistant Commissioner or the Commissioner to the Appellate Tribunal and the provisions of sub-sections (4) to (7) of section 50 shall apply to every such appeal as if it were an appeal against an order passed by the Assistant Commissioner under section 49 or by the Commissioner under section 52 or section 53 :

Provided that the provisions of sections 86 to 88 shall not apply to any order passed by the Appellate Tribunal on any such appeal.

Tax to be calculated to nearest anna.

56. In the determination of the amount of agricultural income-tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take evidence on oath etc.

57. (1) The Agricultural Income-tax Officer, the Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this chapter, and the Commissioner shall, for the purposes of sections 52 and 53 have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him on oath or affirmation ;

(b) compelling the production of documents ; and

(c) issuing commissions for the examination of witness;

and any proceeding before an Agricultural Income-tax Officer, Assistant Commissioner or the Appellate Tribunal under this chapter or before the Commissioner under sections 52 and 53 shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code.

(2) Any officer or authority referred to in sub-section (1) may impound and retain in his or its custody for such period not exceeding one month any books of account or other documents produced in any proceeding under this Act, unless the same are required to be produced in original in a Court.

Power to call for information.

58. The Agricultural Income-tax Officer or the Assistant Commissioner or the Commissioner may, for the purposes of this Act,—

(1) require any firm or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses and such other particulars as may be required,

(2) require any person whom he has reason to believe to be a trustee, guardian, common manager, or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, common manager, or agent, and of their addresses.

59. The Agricultural Income-tax Officer or any person authorised by him in writing in this behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register. Power to inspect the register of members of any company.

60. (1) If the Agricultural Income-tax Officer has reason to believe that any person is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize or take copy or cause copies to be taken of any register of members, debentures, mortage deeds, rent-roll and *batai*, counterfoils of rent receipts, cash books, *seaha* papers and other documents which, in the opinion of the Agricultural Income-tax Officer, are relevant to ascertainment of agricultural income of such person, and shall grant a receipt for any of the papers or documents so seized and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution. Power to seize papers, etc. and search premises.

(2) For the purposes of this section, the Agricultural Income-tax Officer may enter and search the *cutcherry* of such person.

Chapter VII

RECOVERY OF TAX AND PENALTIES

61. (1) Any amount specified as payable in notice of [illegible] Tax when payable.

or order, or, if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default :

Provided that, where an assessee has presented an appeal under section 48 or under clause (*a*) of sub-section (4) of section 55, and if such assessee makes an application to the Agricultural Income-tax Officer, supported by a certified [illegible] tax until the appeal is disposed of, the Agricultural Income-tax Officer shall, unless the Assistant Commissioner for reasons to be recorded in writing, directs otherwise, extend such period until the disposal of the said appeal.

(2) If an assessee makes an application [illegible] mentioned in the notice of demand in section [illegible] lowed to pay the tax due by instalments, [illegible] Income-tax Officer may, in his discretion, [illegible]

allow the assessee to pay the tax due in instalments not exceeding four in number at such intervals as the said officer may fix in his discretion :

Provided that, if as a result of an application made by the assessee, the Agricultural Income-tax Officer allows the assessee to pay the tax due in instalments, the assessee shall be deemed to have waived all his rights of appeal under this Act:

Provided further that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment, he shall be deemed to be a defaulter in respect of the total remaining amount of tax due.

omposition f tax.

[1][61A. (1) Subject to the second proviso to section 4, any person who holds land not exceeding one hundred and twenty acres of irrigated land or three hundred and sixty acres of unirrigated land may, before an assessment order under section 35 has been passed, apply to the Agricultural Income-tax Officer for permission to compound the agricultural income-tax payable by him and to pay in lieu thereof a lump sum at the rate specified in Part III of the schedule.

Explanation.—Where a person holds land partly irrigated and partly unirrigated, one acre of irrigated land shall, for the purpose of this sub-section, be deemed to be equal to three acres of unirrigated land.

(2) Every application under sub-section (1) shall be submitted in such form, in such manner and within such time as may be prescribed.

(3) The Agricultural Income-tax Officer after satisfying himself that the particulars specified in the application are correct may, by order in writing, grant the permission.

(4) A permission granted under sub-section (3) shall subject to the provisions of sub-section (1), be in force for a period of three years commencing from the financial year for which such permission is granted and in respect of that period the provisions of this Act regarding the submission of returns, accounts or other documents, the assessment to agricultural income-tax or any other matter incidental thereto shall not apply in relation to the grantee.

(5) The provisions of section 54 and section 55 shall, so far as may be, apply in relation to the composition of agricultural income-tax under this section, as they apply in relation to the assessment of agricultural income-tax under this Act.]

Mode and ime of recovery.

62. (1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding half that amount shall be recovered from the assessee by way of penalty.

(2) For the purposes of sub-section (1), the Agricultural Income-tax Officer may direct the recovery of any sum less

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1 Inserted by Rajasthan Act 15 of 1961.

than half the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default so however that the total sum so directed to be recovered shall not exceed half the amount of the arrears payable

(3) The Agricultural Income tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee and the Collector on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue

Provided that, without prejudice to any other powers of the Collector in this behalf he shall for the purpose of recovering the said amount have the powers which under the Code of Civil Procedure, 1908 a Civil Court has for the purpose of the recovery of an amount due under a decree

(4) No proceeding for the recovery of any tax payable under this Act shall be commenced after the expiration of three years after—

(*a*) the last date on which the tax is payable without the assessee being deemed to be in default or

(*b*) the date on which the last instalment fixed under sub-section (2) of section 61 falls due, or

(*c*) the date on which any appeal relating to the payment of tax has been disposed of,

whichever is the later

63 Any sum imposed by way of penalty under this Act shall be recoverable in the manner provided in this chapter for the recovery of an arrear of agricultural income tax **Recovery of penalties**

Chapter VIII

REFUNDS

64 (1) If any person satisfies the Agricultural Income-tax Officer that the amount of agricultural income tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess. *Refunds.*

(2) The appellate or revisional authority in the exercise [illegible]

paid or paid in excess

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person, such other person only shall be entitled to a refund under this section in respect of such income

(4) Nothing in this section shall oper[illegible] objection or appeal which is otherwi[illegible]e in [illegible]he revision of any assessment or

become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other than or greater than that relief.

Refund of tax deemed to have been paid by companies, firms and associations on behalf of others.

65. (1) Notwithstanding anything in section 64, a share-holder of a company, a partner of a firm or a member of an association of individuals on whose behalf agricultural income-tax is by sections 23 and 24 deemed to have been paid by such company, firm or association, shall be entitled to a refund of agricultural income-tax on account of any difference between the rate of agricultural income-tax applicable under this Act to the total agricultural income of such company, firm or association and the average rate which would be applicable to the total income of such share-holder, partner or member if such total income were agricultural income chargeable to agricultural income-tax under this Act.

(2) Any share-holder of a company, partner of a firm or member of an association of individuals who is deemed to be entitled under the provisions of sub-section (1) to a refund of agricultural income-tax in respect of the previous year may apply to the Agricultural Income-tax Officer in the prescribed manner for such refund, and if the Agricultural Income-tax Officer after such inquiry as he thinks necessary is satisfied that a refund under the provisions of sub-section (1) is due, he shall compute the amount of such refund according to the provisions of sub-section (3) and such amount shall be paid to the share-holder, partner or member, as the case may be.

(3) The amount of any refund of agricultural income-tax due under the provisions of sub-section (1) shall be the product of the amount of agricultural income on which tax is deemed to have been paid by a company, firm or association of individuals and has been received by a share-holder, partner or member, as the case may be, and the difference between the rate of agricultural income-tax applicable to the total agricultural income of the said company, firm or association chargeable to agricultural income-tax under this Act, and the average rate of such tax applicable to an amount equivalent to the total income of such share-holder, partner or member in the previous year.

(4) "Average rate" in sub-section (3) means the rate obtained by dividing the amount of agricultural income-tax which would be payable by the assessee in the year of assessment if his total income in the previous year were agricultural income chargeable to agricultural income-tax at the rates applicable under this Act by the said total income.

(5) For the purpose of determining the total income—

(*a*) where the total income of an assessee under the Indian Income-tax Act, 1922, has been computed for the purposes of that Act, that computation shall be accepted as determining the total income under that Act for the purposes of this Act and if such a computation has not been made the total income of an

assessee under that Act shall be computed in the manner prescribed ,

(*b*) the agricultural income derived from land outside [1][Pre reorganisation State of Rajasthan] shall be calculated in the manner prescribed

Explanation —A certified copy of an order computing the total income under the Indian Income tax Act, 1922, shall be conclusive evidence of the contents thereof

Reciprocal relief in respect of double taxation with other Governments

66. The State Government may, by notification in the [2][Official Gazette], make provision for the granting of relief in respect of agricultural income on which both agricultural income-tax under this Act and other income tax have been paid

Explanation —For the purpose of this section 'other income tax' means any income tax, super-tax or surcharge under any law of the Union of India

Power to set off amount of refunds against tax or penalty remaining payable

67. Where under any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income tax Officer, the Assistant Commissioner or the Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount, against the agricultural income tax or penalty if any, remaining payable by the person to whom the refund is due

Power of representative of deceased person or persons disabled to make claim on his behalf

68. Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would, but for such cause, have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 64 or section 65 is unable to receive such refund or to make such claim, his executor, administrator, or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate

next after the expiry of the previous year in which the agricultural income was received

CHAPTER IX

OFFENCES AND PENALTIES

Failure to deliver return or statements or allow inspection.

70. (1) If any person fails without reasonable cause or excuse—

(*a*) to furnish a certificate required by section 32 to be furnished, or

(*b*) to furnish in due time any of the returns mentioned in section 33 or section 34 or section 58, or

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[1] Subs. by Rajasthan A.O 1956 (w e f 1-11 56)

[2] Subs. by Rajasthan Act 27 of 1957

(*c*) to produce, or cause to be produced, on or before the last date allowed by the Agricultural Income-tax Officer under the first proviso to sub-section (4) of section 34 or the date mentioned in the notice under the said sub-section, whichever is the later, such accounts or documents as are referred to in the notice, or

(*d*) to permit inspection or allow copies to be taken in accordance with the provisions of section 59;

he shall be punishable with fine which may extend to twenty-five rupees.

(2) If a person after having been convicted of any offence referred to in sub-section (1) continues to commit such offence he shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to five rupees per day.

False statement in declaration.

71. If a person makes a statement in a verification mentioned in section 34 or sub-section (3) of section 48 or sub-section (4) of section 50 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees or with both.

Power to compound offences.

72. The Commissioner may, subject to such conditions as may be prescribed, either before or after the institution of proceedings, compound any offence under section 70 or section 71.

Disclosure of information by public servant.

73. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this chapter, or in any record of any assessment proceeding or any proceeding relating to the recovery of a demand prepared for the purposes of this Act, shall be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of such record or to give evidence before it in respect thereof.

(2) If, save as provided in this Act, any public servant discloses any of the particulars referred to in sub-section (1) he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosure—

(*a*) of any such particulars in connection with a prosecution under the Indian Penal Code, 1860, or under this Act in respect of any matter arising in the course of the execution of this Act; or

(*b*) of any such particulars to any person acting in the execution of the Act where it is necessary to disclose the same to him for the purposes of this Act; or

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or for the recovery of any demand , or

(*d*) of any such particulars to a Civil Court in any suit, to which the Government or any Agricultural Income-tax Officer as a party, which relates to any matter arising out of any proceedings under this Act , or

(*e*) of any such particulars to an officer appointed to audit agricultural income tax receipts or refunds ; or

(*f*) of any such particulars relevant to any enquiry into the conduct of any official of the Agricultural Income-tax Department to any persons appointed Commissioners under the Public Servants Inquiries Act, 1850, of the Central Legislature as adapted to [1][Pre reorganisation State of Rajasthan] or to an officer otherwise appointed to hold such inquiry or to the State Public Service Commission when exercising its functions in a relation to any matter arising out of any such inquiry , or

(*g*) of any such particulars relevant to any enquiry into a charge of misconduct in connection with proceedings under this Act against a legal practitioner or registered or chartered accountant to the authority referred to in sub section (3) of section 81 when exercising the functions referred to in that sub-section , or

(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 as adapted to [1][Pre reorganisation State of Rajasthan] to impound an insufficiently stamped document , or

(*i*) of such facts as may be necessary to enable a refund to be given in accordance with this Act or the rules made thereunder, or

(*j*) of such facts to an officer of the Central or a State Government as may be necessary for the purposes of enabling that Government to levy or realise any tax or duty imposed by it , or

(*k*) of such facts to any authority exercising powers under any Act imposing any tax or duty as may be necessary for enabling it duly to exercise such powers, or

(*l*) of such particulars to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to agricultural income tax in any particular year or years where under the provisions of any law for the time being in force such fact is required to be established , or

(*m*) of such particulars in any rent roll or other doc produced by the assessee as the basis of income or any part of such income

[1]Subs. by Rajasthan A O 1956 (w e f. 1-11 56).

(4) Nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed or the record of any statement or deposition made in any proceeding under section 44 or to the giving of evidence by a public servant in respect thereof.

Cognizance of offences.

74. (1) No Court shall take cognizance of any offence under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no Court inferior to that of a Magistrate of the First Class shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act shall be cognizable and bailable.

Chapter X

SUPER-TAX

Super-tax.

75. In addition to the agricultural income-tax charged for any year there shall be charged, levied and paid for that year in respect of the total agricultural income of the previous year of any person not being a registered firm an additional duty of agricultural income-tax (in this Act referred to as Super-tax):

Provided that where under the provisions of clause (*b*) of sub-section (5) of section 35 an unregistered firm has been assessed in the manner applicable to a registered firm, super-tax shall be payable by each partner of the firm individually on his share in the agricultural income of the firm and not by the firm itself :

Provided further that where the profits and gains of an unregistered firm or other association of persons not being a company have been assessed to super-tax, super-tax shall not be payable by a partner of the firm or a member of the association, as the case may be, in respect of the amount of such profits and gains which is proportionate to his share.

Limits of taxable income and rates for Super-tax purposes.

76. Super-tax on agricultural income shall be payable by a person whose total agricultural income of the previous year exceeds Rupees 30,000 at such rate or rates as may be laid down from year to year by the annual Finance Act :

Provided that the Super-tax at the rate or rates specified in Part II of the Schedule shall be charged on the total agricultural income accruing to every person during the financial year commencing on the 1st April, 1953.

Total agricultural income for purposes of Super-tax.

77. Subject to the provisions of this Chapter the total agricultural income of any person shall for the purposes of super-tax, be the total agricultural income as assessed for the purposes of agricultural income-tax and where an assessment of the total agricultural income has become final and conclusive for the purpose of agricultural income-tax for any year the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

78. All the provisions of this Act relating to the charge, assessment, collection and recovery of agricultural income-tax except those contained in section 3, section 4, clauses (*a*) and (*c*) of section 14, section 32 [1][section 33 and section 61A] shall apply so far as may be, to the charge, assessment, collection and recovery of super-tax

Application of Act to Su-per-tax.

CHAPTER XI

MISCELLANEOUS

79. (1) The State Government may make rules consistent with the provisions of this Act for carrying out the purposes of this Act

Power t make rules

(2) Without prejudice to the generality of the foregoing powers, such rules may—

(*a*) prescribe in accordance with the provisions of this Act, the manner of ascertainment and determination of agricultural income,

(*b*) prescribe the procedure to be followed on applications for refunds allowable under the Act ;

(*c*) provide for any matter which by this Act is required to be or may be prescribed

80. The State Government may by notification in the Rajasthan Gazette make an exemption, reduction in rate or other modification in respect of agricultural income-tax in favour of any class of income or in regard to the whole or any part of the agricultural income of any class of persons to the extent of such income being utilized for the development of agriculture or of being applied solely to a charitable purpose as defined in section 4 of the Indian Income-tax Act

Power make redu*tion in rate*

81. (1) An assessee who is entitled or required to attend before the Appellate Tribunal or any Agricultural Income-tax Officer in connection with any proceeding under this Act otherwise than when required under section 57 to attend personally for examination on oath or affirmation may attend by a person authorised by him in writing in this behalf being a relative of or a person regularly employed by the assessee or a lawyer or accountant or agricultural income-tax practitioner and not being disqualified by or under sub-section (3).

Appearance by authori ed representa tive.

(2) In this section —

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee *maintains a current account or has* other regular dealings ,

(ii) "lawyer" means any person entitled to plead in any Court of law in the State ;

(iii) "accountant" means a charter

(iv) "agricultural income-tax
person who has acquired

[1]Inserted by Rajasthan Act 15 of 1961

qualifications as may be prescribed and has been registered in the manner prescribed as such a practitioner.

(3) If any lawyer or accountant is found guilty of misconduct in connection with any agricultural income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1):

Provided that—

(*a*) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard ;

(*b*) any person against whom such direction is made may, within one month of the making of the direction, appeal to the High Court ; and

(*c*) no such direction shall take effect until one month from the making there of or, when an appeal is preferred, until the disposal of the appeal.

Receipts to be given.

82. A receipt shall be given for any money paid or recovered under this Act.

Service of Notices.

83. (1) A notice or requisition under this Act may be served on the person therein named either by post, or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908.

(2) Any such notice or requisition may—

(*a*) in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager of the family, and

(*b*) in the case of a company or any other association of individuals be addressed to the principal officer thereof.

Place of assessment.

84. (1) Where an assessee is a company having a registered office in [1][Pre-reorganisation State of Rajasthan], it shall be assessed by the Agricultural Income-tax Officer of the area in which such registered office is situated.

(2) Where an assessee is a company not having a registered office in [1][Pre-reorganisation State of Rajasthan] or is a firm or other association of individuals, it shall be assessed by the Agricultural Income-tax Officer of the area where the principal accounts relating to its agricultural income are kept.

(3) In all other cases the assessee shall be assessed by the Agricultural Income-tax Officer of the area in which such assessee resides and where the assessee resides outside [1][Pre-reorganisation State of Rajasthan] by the Agricultural Income-tax Officer of the area in which the agent or the principal officer of such assessee resides :

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[1]Subs. by Rajasthan A. O. 1956 (w.e.f. 1-11-56).

Provided that if the accounts relating to the agricultural income of an assessee are kept in any place in [1][Pre reorganisation State of Rajasthan] such assessee shall have the option of being assessed by the Agricultural Income tax Officer, of the area in which such place is situated

Explanation —In the case of a Hindu undivided family an assessee shall for the purpose of this sub section be deemed to reside where the manager of the family resides

(4) Where an option is exercisable by an assessee under the proviso to sub section (3), he shall exercise such option, where a notice under sub section (2) of section 34 is served, within thirty days from the service of such notice

(5) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner after giving the assessee an opportunity of being heard

(6) Where an assessment has once been made under this Act by an Agricultural Income tax Officer, no objection relating to the place of assessment shall lie against such assessment

[illegible] tunity

ment thereof

86 (1) If, in the course of any assessment under this [illegible]

from any Agricultural Income tax Officer [illegible] ment of the case and refer it [illegible] to the High Court

(2) [2][Within ninety days [illegible] served with a notice of [illegible] section 50, the assessee or [illegible] tion in the prescribed [illegible] cation is made by the [illegible] quired the Appellate [illegible] any question of law [illegible] Tribunal shall [illegible] plication, draw up [illegible] High Court

Provided [illegible] section (3 [illegible] it has been [illegible]

1 Subs by Rajasthan [illegible]

2 Subs by R[illegible]

within thirty days from the date on which he receives notice of the refusal to state the case withdraw his application, and if he does so, the fee paid shall be refunded.

(3) If on any application being made under sub-section (2) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may within ninety days from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly.

(4) If on any application being made under sub-section (2) the Appellate Tribunal rejects it on the ground that it is timebarred, the assessee or the Commissioner, as the case may be, may, within sixty days from the date on which he is served with notice of the rejection, apply to the High Court and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner or the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(6) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) Where a reference is made to the High Court the costs shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of assessment is reduced as a result of such reference, the amount over-paid shall be refunded with such interest as the Commissioner may allow.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the Appellate Tribunal under sub-section (2) or to the High Court under sub-section (3) or sub-section (4).

87 When any case has been referred to the High Court under section 86, it shall be heard by a Bench of not less than two judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908, shall so far as may be, apply notwithstanding anything contained in any other law for the time being in force

Reference t be heard by Bench of th High Court

of 1908

88. No suit or other legal proceedings shall lie in any civil court—

Bar to lega proceedings

(a) to set aside or modify any assessment under this Act, or

(b) for the grant of any relief which will have the effect of preventing the commencement or continuance of any assessment proceeding against any person under this Act

(2) No prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act

89. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 86 the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded

Computation of periods o limitation.

90. [1][***]

91. [2][* * * *]

[1]Omitted by Rajasthan ...

[2]Omitted by Rajasthan ...

THE SCHEDULE

(*See* section 4)

PART I

Rates of Agricultural Income-tax

[1][(A) In the case of every individual, Hindu undivided family, Muslim wakf, firm and other association of individuals, not being a case to which paragraph (B) of this part applies, the basic rates of agricultural income-tax will be as follows :—

	Rate
1. On the first Rs. 1,500 of total agricultural income . .	Nil.
2. On the next Rs. 3,500 of total agricultural income . .	Four naye paise in the rupee.
3. On the next Rs. 10,000 of total agricultural income . .	Nine naye paise in the rupee.
4. On the next Rs. 10,000 of total agricultural income . .	Nineteen naye paise in the rupee.
5. On the balance of total agricultural income . . .	Twenty-five naye paise in the rupee.

These rates are subject to the condition that the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs. 3,000.

(B) In the case of a company, agricultural income-tax shall be payable on the whole of the aricultural income at the maximum rate of twenty-five naye paise in the rupee.]

PART II

Rates of Super-tax

[1][(A) In the case of every individual, Hindu undivided family, Muslim wakf, firm and other association of individuals, not being a case to which paragraph (B) or paragraph (C) of this part applies, the basic rates of agricultural super-tax shall be as follows :—

	Rate
1. On the first Rs. 25,000 of total income	Nil.
2. On the next Rs. 10,000 of total income	Six naye paise in the rupee.
3. On the next Rs. 10,000 of total income	Nine naye paise in the rupee.
4. On the next Rs. 10,000 of total income	Twelve naye paise in the rupee.
5. On the next Rs. 10,000 of total income	Sixteen naye paise in the rupee.
6. On the next Rs. 10,000 of total income	Nineteen naye paise in the rupee.
7. On the next Rs. 15,000 of total income	Twenty-two naye paise in the rupee.

[1]Substituted by Rajasthan Act 18 of 1957.

	Rate
8 On the next Rs. 15,000 of total income . . .	Twenty-five naye pais in the rupee.
9 On the next Rs 15,000 of total income	Twenty eight naye pai in the rupee
10 On the next Rs 30,000 of total income	Thirty-two naye pai in the rupee
11. On the balance of the total income	Thirty-five naye paise i the rupee

(B) In the case of an association of persons being a co operative society for the time bein registered or deemed to be registered under the Rajasthan Co operative Societies Act, 195 (Rajasthan Act IV of 1953) —

1. On the first Rs 25,000 of total income . .	Nil
2. On the balance of the total income	Six naye paise in th rupee

(C) In the case of every company —

On the whole of the total income . .	Six naye paise in th rupee]

[1][PART III

(*See* section 61 A)

(i) Irrigated Land :

	Rate (Rs)
Up to 50 acres	1 00 per acre
Above 50 acres but not exceeding 60 acres	1.25 " "
Above 60 acres but not exceeding 70 acres	1 50 " "
Above 70 acres but not exceeding 80 acres	2 00 " "
Above 80 acres but not exceeding 90 acres	2 50 " "
Above 90 acres but not exceeding 100 acres	3 00 " "
Above 100 acres but not exceeding 110 acres	3 50 " "
Above 110 acres but not exceeding 120 acres	4 00 " "

(ii) Unirrigated Land

[1] Inserted by Rajasthan Act 15 of 1961.

THE U. P. LARGE LAND HOLDINGS TAX ACT, 1957*

[U.P. ACT XXXI OF 1957]

An Act to provide for the imposition and collection of a tax on large land holdings

WHEREAS it is expedient to provide for the imposition and collection of a tax on large land holdings ;

IT is hereby enacted in the Eighth Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title extent and commencement.

1. (1) This Act may be called the U.P. Large Land Holdings Tax Act, 1957.

(2) It extends to the whole of Uttar Pradesh.

(3) It shall be deemed to have come into force on the first day of July, 1957.

Definitions

2. In this Act unless there is anything repugnant in the subject or context—

(1) "land holding" shall have the meaning assigned to it in section 4 ;

(2) "annual value" shall have the meaning assigned to it in section 5 ;

(3) "assessee" means the land-holder by whom holding tax is payable and, in the case of his death, includes his legal representative ;

(4) "assessing authority" shall have the meaning assigned to it in section 6 ;

(5) "Assistant Collector of the First Class" shall have the meaning assigned to it in the U.P. Land Revenue Act, 1901 ; U. P. Act II of 1901.

(6) "Collector" includes an Additional Collector;

(7) "Commissioner" includes an Additional Commissioner ;

(8) "company" means a company as defined in the Indian Income Tax Act, 1922 ; Act XI of 1922.

(9) "co-operative farm" means a co-operative farm to which the provisions of Chapter XI of the U.P. Zamindari Abolition and Land Reforms Act, 1950, are applicable ; U. P. Act of 1951.

(10) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 and includes a co-operative farm ; Act II of 1912.

*The U. P. Imposition of Ceiling on Land Holdings Act, 1960 provides for repeal of this Act with effect from 30th June, 1961.

Act XI of 1932 (11) "firm" has the meaning assigned to it in the Indian Partnership Act, 1932 ,

(12) "*hissedar*" shall have the meaning assigned to it in the existing law relating to land tenure in force in Kumaun Division and includes guzaredars of Pargana Askot and holders of fee simple estates ,

(13) "holding tax" shall have the meaning assigned to it in section 3 ,

(14) "intermediary" means a proprietor, under-proprietor, a sub-proprietor, a *thekedar*, a permanent lessee in Oudh, a permanent tenure-holder and a *hissedar* ,

(15) "land" means land, whether assessed to land revenue or not, which is held or occupied for a purpose connected with agriculture, horticulture, animal husbandry, pisciculture or poultry farming and includes uncultivated land held by a land-holder as such ,

(16) "land holder" means—

(i) an intermediary, where the land is in his personal cultivation or is held as *sir*, *khudkasht*, or grove, and

(ii) any other person who holds or occupies land otherwise than as—

(a) an *asami*,

(b) a sub-tenant,

(c) a tenant of *sir*, or

(d) a *sirtan*,

and includes a manager or a principal officer, as the case may be ,

Explanation—In this clause *asami* does not include an *asami* of *Gaon Samaj* ,

Act V of 1908 (17) "legal representative" shall have the meaning assigned to it in the Code of Civil Procedure, 1908 ,

(18) "principal officer" used with reference to any company or association means—

(i) the secretary, treasurer, manager or agent of the company or association, or

(ii) any person connected with the company or association upon whom the assessing authority has served notice of his intention of treating him as principal officer thereof ,

(19) "prescribed" means prescribed by rules made under this Act ,

(20) "*sirtan*" shall have the meaning assigned to it in the law relating to land tenure in [illegible] Kumaun Division ,

(21) "State Government" means Uttar Pradesh ;

(22) "Sub-divisional Officer" means the Assistant Collector of the First Class in charge of a sub-division appointed under the U.P. Land Revenue Act, 1901 and includes any other Assistant Collector of the First Class specified as such by the Collector for the purposes of this Act ; U.P. Act III of 1901.

(23) the expressions "agricultural year", "grove", "*khudkasht*", "permanent tenure-holder", "permanent lessee in Oudh", "proprietor", "sanctioned hereditary rates", "sub-tenant", "sub-proprietor", "*thekedar*" and "under-proprietor" shall have the meaning assigned to them in the U.P. Tenancy Act, 1939; and U. P. Act XVII of 1939.

(24) the expression "*asami*" and "*Gaon Samaj*" shall have the meaning assigned to them in the U.P. Zamindari Abolition and Land Reforms Act, 1950. U. P. Act I of 1951.

CHAPTER II

IMPOSITION OF HOLDING TAX

Charge of Holding Tax.

3. (1) There shall, save as hereinafter provided, be charged, levied and paid, for each agricultural year, on the annual value of each land holding, a tax, hereinafter called the "Holding Tax" at the rates specified in the Schedule :

Provided that no such tax shall be charged on any land holding the area whereof does not exceed thirty acres ;

(2) The State Government may, by notification in the official *Gazette*, exempt or remit in whole or in part, for such period as it may think fit and as often as it may consider necessary, the holding tax chargeable under sub-section (1) in respect of any class or classes of land holdings as may be prescribed.

(3) For the purposes of computing the area of land under the proviso to sub-section (1) the land covered by building with the area appurtenant thereto, but not exceeding five acres shall be excluded.

Land Holding.

4. (1) For the purposes of this Act, "land holding" means the aggregate of all land held or occupied on the first day of July each year by a land-holder, whether in his own name or in the name of any member of his family, and all such land shall be deemed to form part of the land holding of such land-holder :

Provided that the land held or occupied by a member of the family of the land-holder, shall not form part of the holding of such land-holder, if the same is managed and cultivated separately.

Explanation I.—For the purposes of this section a family shall include—

(*a*) mother ;

(*b*) wife ;

(*c*) unmarried daughter, or son's daughter ;

(*d*) son, or son's son or son's son's son

(*e*) son's wife or son's son's wife

Explanation II—Land held by an incorporated association other than a co-operative society, but including a society or an association registered under the Societies Registration Act, XXI of 1860, or a company or firm, shall be deemed to be one land holding

(2) Subject to the provisions of sub-section (1), where land is held or occupied by two or more persons or a co-operative society, the share in the land of such person or a member of co-operative society shall, for the purpose of this Act, be deemed to have been held separately and shall form part of the land holding of such person or a member, as the case may be

Explanation—In the case of a co-operative farm the expression "share in land' shall mean the land contributed to the farm by or on behalf of a member thereof

Annual value

5 (1) For the purposes of this Act, annual value of a land holding shall be deemed to be an amount equal to the rent payable for the land or lands included therein multiplied by such multiple not exceeding twelve and a half as may be prescribed and different multiples may be prescribed for different districts or portions of districts or for different classes of lands included in a land holding

(2) For the purposes of sub-section (1) the rent payable shall be deemed to be an amount calculated at the sanctioned hereditary rates applicable to the land or lands included in the land holding and where there are no sanctioned hereditary rates, on such principles as may be prescribed

Provided that the State Government may, where such rates were sanctioned prior to the first day of July, 1927, enhance the rates by such percentage not exceeding fifty as may be specified by notification in the official *Gazette* and different percentages may be specified for different classes of lands and for different areas of Uttar Pradesh

Chapter III

ASSESSMENT OF HOLDING TAX

Assessing authority

6 (1) For the purpose of this Act the assessing authority shall, subject to the provisions of sub-section (2), be the Sub-divisional Officer within whose jurisdiction the land-holder ordinarily resides

Provided that the State Government may direct that any Assistant Collector of the First Class specified by it in this behalf shall exercise in the whole of the district or any part thereof all or any of the powers conferred on the assessing authority under this Act to the exclusion of any other assessing authority

Provided further that where the land-holder does not ordinarily reside in Uttar Pradesh, the assessing
shall be the Sub-divisional Officer or the Assistant C

exercising jurisdiction within the sub-division, as the case may be, within whose jurisdiction the land holding is situate, and where the holding is situate in more than one district or sub-division, any such one of the Sub-divisional Officers or the Assistant Collectors, as the case may be, according as the land-holder may in the manner prescribed exercise his option and the option so exercised shall not be changed except with the previous permission of such authority as may be prescribed:

Provided also that where the option as aforesaid is not exercised or where a question is raised as to the assessing authority which should exercise the jurisdiction, the matter shall be referred to such authority as may be prescribed for its decision which shall be final.

(2) Where the land-holder desires that the assessment should take place in a sub-division other than the one in which he ordinarily resides, he shall apply for such permission—

(*i*) if the sub-division in which he resides and the sub-division in which he desires assessment are in the same district, to the Collector of the district, and

(*ii*) in other case to such authority as may be prescribed.

(3) The permission applied for under sub-section (2) may be granted if the authority to whom the application is made considers that it will help in the convenient and speedy disposal of the assessment.

(4) The assessing authority shall exercise such powers and perform such duties as are conferred on him by this Act or the rules made thereunder.

Notice regarding return of land holdings.

7. (1) The Collector shall, on or before such date in each agricultural year, as may be prescribed, publish a notice requiring every land-holder who is liable to pay holding tax to furnish to such assessing authority and within such period not being more than thirty days as may be specified in the notice, a return verified in the prescribed manner, setting forth the area and other particulars of all land held by him as such.

(2) A notice may also be served in such manner, as may be prescribed, on every such land-holder who, in the opinion of the assessing authority, is liable to the payment of holding tax requiring him to furnish within such period not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner. Alongwith the notice the assessing authority shall also send a statement showing the provisional estimates of the annual valuation of the land holding of such person and the tax payable by him. The estimates shall be prepared in such form and shall contain such particulars as may be prescribed:

Provided that the assessing authority may, in his discretion, extend for a period not exceeding thirty days, the date for the filing of the return.

(3) Where the land-holder to whom the provisions of second proviso to sub-section (1) of section 6 are applicable files a return in pursuance of the notice under sub-section (1)

or (2) he shall, along with the return, also file a declaration indicating his choice of the assessing authority in terms of the proviso aforesaid.

(4) Where the notice served under sub-section (2) is subsequently discovered to be defective and it becomes necessary to serve a fresh notice, the same may still be served notwithstanding that the agricultural year may have expired provided that the former was served in time and a period of three years has not elapsed since then

8 (1) Where the assessing authority is satisfied that the return made under section 7 is correct and complete he shall determine the annual valuation of the land holding and shall assess the holding tax chargeable thereon on the basis of such return Assessment

(2) Where the assessing authority has reason to believe that the return made under section 7 is incorrect or incomplete, he shall require the land-holder who made the return either to attend at the office of the assessing authority or to produce or cause to be produced any evidence in support of the return on such date as may be fixed

(3) On the date fixed under sub-section (2) or as soon afterwards as may be, the assessing authority, shall after considering such evidence as such person may produce and such further evidence as the assessing authority may require, determine the annual valuation of the land holding and assess the holding tax chargeable thereon

(4) Where any person fails to make a return under section 7, or, having made the return, fails to comply with the provisions of sub-section (2) or (3) the assessing authority shall make the assessment to the best of his judgment with due regard to the estimates sent under sub-section (2) of section 7.

9 Where a land-holder dies before the assessment has been completed under section 8, the assessing authority may in the manner prescribed, serve a notice on his legal representative and the provisions of this Chapter shall thereafter apply as if such legal representative were the deceased land-holder Applicatio of the pro sions of t Chapter to legal rep sentative

10 When the assessment has been made under section 8, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying the amount of holding tax payable by the assessee and the date or dates within which it shall be paid A copy of the order of assessment shall also be sent along with the notice Notice of mand

11 (1) Any assessee aggrieved by an order of the assessing authority as respects the amount or rate at which the land Appeal inst ment of H ding Tax.

under section 10, appeal to the Commissioner

(2) The Commissioner may admit appe 'e of the period of thirty days referred to in is satisfied that there was sufficient cause within that period.

(3) Every appeal under this section shall be presented and verified in the prescribed manner.

(4) The Commissioner may pass such orders on the appeal as he thinks fit and shall send a copy of such orders to the appellant, the assessing authority and such other authority as may be prescribed :

Provided that no enhancement of the holding tax shall be made under this section unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

Revision.

12. (1) The Board of Revenue may, on their own motion or on an application, call for the record of any proceeding of the assessing authority or the appellate authority by whom the case or appeal was decided if it appears to have exercised jurisdiction not vested in it by law or to have acted in the exercise of its jurisdiction illegally or with substantial irregularity and may pass such order in the case as they think fit :

Provided that no such application shall be entertained in any case where an appeal lay against the order but the applicant failed to prefer it within the time prescribed therefor :

Provided further that the Board of Revenue shall not pass any order prejudicial to any party without giving him a reasonable opportunity of being heard.

(2) The application under sub-section (1) shall be made within one year from the date of the receipt of the order complained of, but the Board of Revenue may on proof of sufficient cause, entertain an application within a further period not exceeding six months.

Order of the Board to be final.

13. Any order passed by the Board of Revenue under section 12 shall be final. A copy of every such order shall be sent to the assessee, the assessing authority and such other authority as may be prescribed.

Procedure in revision.

14. In the exercise of its jurisdiction under section 12, the Board of Revenue shall, as far as may be, follow the procedure laid down by or under the U.P. Land Revenue Act, 1901 and the provisions of section 8 of the said Act shall *mutatis mutandis* apply as if a proceeding under section 12 were a judicial proceeding under the said Act :

U.P. Act III of 1901.

Provided that where members of the Board of Revenue are equally divided as to any order to be made in revision, the matter shall be referred for decision to a third member.

Land holding escaping assessment.

15. If for any reason any land holding chargeable to holding tax has escaped assessment for any year or has been assessed at too low a rate, the assessing authority may, at any time within three years of the expiry of that year, serve, on the land-holder liable to pay the tax chargeable on such land holding, a notice containing all or any of the requirements which may be included in a notice under section 7 and upon the service of such notice, the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section :

Provided th t the tax shall be charged at the rate at which it would have been charged if such holding had not escaped assessment or full assessment as the case may be

Rectification of mistake

16 (1) Any authority which passed an order of assessment or an order in appeal or revision as the case may be, may, on its own motion or on an application by either party at any time within one year from the date of such order, rectify any mistake apparent on the face of the record of the assessment, appeal or revision as the case may be

Provided that no such rectification shall be made without giving a reasonable opportunity of being heard to either party

(2) Where any such rectification has the effect of reducing the assessment, the authority concerned shall order refund of the excess amount to the assessee

(3) An order under sub section (1) which has the effect of enhancing the assessment, shall be deemed to be an order passed under section 8, 11, or 12, as the case may be, and the provisions of this Act shall in so far as may be applicable, apply to such order

CHAPTER IV

PAYMENT OF HOLDING TAX

Liability for payment of holding tax.

17. The holding tax chargeable on a land holding under section 3 shall be payable by the land holder

Provided that the holding tax payable by the land holder in respect of his share in land held by a Co operative Society shall be payable and be realized from the Co operative Society as if it were an assessee

ax of decea- d landhold payable legal re- escntatives

1'

this Act if he had not died

Tax how payable

19. (1) The amount of holding tax pecified in any notice of demand under section 10 or in any order communicated under section 11 or 12 shall be payable in four equal instalments

(2) The first instalment shall be paid within two months of the service of the notice of demand or communication of the order, as the case may be, and the subsequent instalments within such period from the due date of the first instalment as may be prescribed

(3) If any instalment is not paid within the time allowed under ub ection (2), the assessee shall be in default

Provided that when an assessee has presented an appeal under section 11, or an application for revision under section 12, the appellate or the revising authority, as [illegible] on application may, on such terms and [illegible] specify, direct that the assessee shall be tr[illegible] in default

CHAPTER V

MISCELLANEOUS

Power to take evidence on oath.

20. The assessing, appellate and revising authorities shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely— Act V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath or affirmation,

(*b*) compelling the production of any document, and

(*c*) issuing commission for the examination of any witness,

and any such proceeding before such authority under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code and also for the purposes of section 196 of the said Code. Act XLV of 1860.

Penalty for default in payment of tax.

21. (1) When an assessee is in default in making payment of any instalment of the holding tax, the assessing authority may, in its discretion, direct that, in addition to the amount of the arrears, a sum not exceeding one eighth of that amount shall be recovered from the assessee by way of penalty.

(2) A notice of demand showing the amount of penalty shall in the manner prescribed be served on the assessee.

Appeal against penalty.

22. Any assessee objecting to the amount of penalty imposed upon him under section 21 or denying any liability for such penalty may, within 30 days of the date of receipt of the notice of demand under the said section, appeal to the Commissioner and the provisions of sub-sections (2) to (4) of section 11 shall thereupon *mutatis mutandis* apply :

Provided that where on an appeal under section 11 or on an application for revision under section 12 the assessment made under section 8 has been set aside or the amount of holding tax has been reduced, the penalty imposed under section 21 shall be deemed to have been written off or reduced proportionately, as the case may be.

Recovery of sum payable under this Act.

23. (1) The Collector may on the motion of the assessing authority, recover—

(*a*) where the assessee is in default, the amount assessed as holding tax, and

(*b*) any sum imposed by way of penalty under section 21,

as if it were an arrear of land revenue :

Provided that the processes mentioned in clause (c), (*e*), (*f*) or (*h*) of section 146 of the U.P. Land Revenue Act, 1901, or those mentioned in clauses (*c*) and (*f*) of section 279 of the U.P. Zamindari Abolition and Land Reforms Act, 1950, shall be issued only after the other processes mentioned in the said sections of the said Acts have been exhausted. U. P. Act III of 1901. U. P. Act I of 1951.

(2) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of two years from the date on which it fell due :

Provided that the period of two years herein referred to shall—

(i) where an assessee has been treated as not being in default under proviso to sub section (3) of section 19 as long as his appeal or revision is undisposed of, be reckoned from the date on which the appeal or revision is disposed of ,

(ii) where recovery proceedings in any case have been stayed by an order of a court or any other authority, be reckoned from the date on which the order is withdrawn , and

(iii) where the date of payment of holding tax has been extended by any authority, be reckoned from the date up to which the time for payment had been extended

24. No suit
or modify any
secution, suit
or the State G
done under this Act in good faith

tion in the Delegation of powers
, any of the
d subject to
any restrictions or conditions as may be specified in the notification

26. Any land holder, who is entitled or required to attend before any authority in connexion with any proceeding under this Act, may attend either in person or through a duly authorised agent. Appearance by authorized representative

27. A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 Service of notice

V of 1908
8.

28 (1) With effect from the date this Act comes into force the U P Agricultural Income Tax Act, 1948, shall stand repealed Repeal

Act III of 1949

(2) Notwithstanding anything contained in the U P General Clauses Act, 1904, the repeal under sub section (1) shall not—

Act I of 1904

(a) affect the previous operation of the Act so repealed or anything done or suffered thereunder , or

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed , or

(c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed , or

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege obl
liability, penalty, forfeiture or
aforesaid ,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

Power to make rules.

29. (1) The State Government may, by notification in the official *Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely—

(*a*) the principles on which and the manner in which tax may be exempted or remitted under section 3 ;

(*b*) the principles on which and the manner in which the sanctioned hereditary rates may be enhanced under section 5 ;

(*c*) the form of the return to be furnished under section 7 and the manner in which it shall be filed ;

(*d*) the form of declaration to be filed under sub-section (3) of section 7 ;

(*e*) the procedure relating to assessment under section 8 ;

(*f*) the manner in which and the principles on which the tax payable by the co-operative society under the proviso to section 17 shall be determined;

(*g*) the form of notices required to be issued under the provisions of this Act and the manner of their publication;

(*h*) the procedure to be followed in appeals, revisions and other proceedings under this Act, in cases for which no specific provision has been made herein;

(*i*) the time within which applications may be presented under this Act, in cases for which no specific provision in that behalf has been made herein;

(*j*) the fees to be paid in respect of appeals and applications under this Act, in cases for which no specific provision in that behalf has been made herein;

(*k*) the procedure and the form for the maintenance of books of accounts and other registers, returns and statements required for the purposes of this Act;

(*l*) the duties of any officer or authority having jurisdiction under this Act, the procedure to be followed by such officer and authority in cases for which no specific provision has been made herein ;

(*m*) the transfer of proceedings from one authority or officer to another; and

(*n*) the matters which are to be and may be prescribed under this Act.

(3) All rules made under this Act shall be laid for not less than 14 days before the State Legislature as soon as they are made and shall be subject to such modifications as the Legislature may make during the Session in which they are so laid.

SCHEDULE

(*See* Section 3)

Rate of Holding Tax

1. On the first Rs 1,800 of annual valuation . . .	Nil
2. On the next Rs. 3,200 of annual valuation . .	Five naye paise in rupee
3. On the next Rs. 5,000 of annual valuation . .	Ten naye paise in rupee
4. On the next Rs. 10,000 of annual valuation. . . .	Twenty-five naye pai in a rupee
5. On the next Rs 10,000 of annual valuation . . .	Forty naye paise in rupee.
6. On the balance of annual valuation . . .	Sixty naye paise in rupee.

These rates are subject to the conditions that—

(*a*) no holding tax shall be payable where the annual valuation does not excee Rs. 3,600, and

(*b*) where the annual valuation does not exceed Rs 5,000 the holding tax payable sha not exceed half the amount by which the annual valuation exceeds Rs 3,600.

THE BENGAL AGRICULTURAL INCOME-TAX ACT, 1944

[BENGAL ACT IV OF 1944]

An Act to provide for the imposition of a tax on agricultural income derived from land situated in Bengal

WHEREAS it is necessary to make an addition to the revenues of Bengal, and for that purpose to impose a tax on agricultural income derived from land situated in Bengal;

IT is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Bengal Agricultural Income-tax Act, 1944.

(2) It extends to the whole of [1][West Bengal].

(3) It shall be deemed to have come into force on the 1st day of April, 1944.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in [2][a State] or subject to a local rate assessed and collected by officers of the [3][Government] as such;

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

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[1]The words within square brackets were substituted for the word "Bengal" by paragraph (2) of Article 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

[2]The words "a Province of India" were originally substituted for the words "British India", by paragraph (1) of Article 3 of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948; thereafter the words "of India" were omitted by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950 and the word "State" was substituted for the word "Province" by paragraph 4(1) *ibid*,

[3]The word "Government" within square brackets was substituted for the word "Crown" by pragraph 4(1) of the Adaptation of Laws Order, 1950.

(iii) the sale by a cultivator or receiver of rent-in kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in item (ii),

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent in kind of any land with respect to which, or the produce of which, any operation mentioned in items (ii) and (iii) of sub clause (b) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent in kind by reason of his connection with the land, requires as dwelling house, or as a store house or other out-building,

(2) "Agricultural Income tax Officer" means a person appointed to be an Agricultural Income tax Officer under section 21,

(3) "assessee" means a person by whom agricultural income tax is payable,

(4) "Assistant Commissioner" means the person appointed as Assistant Commissioner of Agricultural Income tax under section 21,

(5) "Commissioner" means the person appointed to be the Commissioner of Agricultural Income-tax, [1][West Bengal], under section 21,

VII of 1913. (6) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament [2][of the United Kindgom] or of Royal Charter or Letters Patent or of an Act of the Legislature of a British possession or under a law of [3][a Part B State], and includes any foreign association carrying on business in [4][India] or owning or possessing any interest in land in [1][West Bengal] whether such association is incorporated or not, and whether its principal place of business is situated in [4][India], or not,

[1] *See* foot note 1 on page 358, *ante*.

[2] These words within square brackets were inserted by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

[3] These words and letter within square brackets were substituted for the words "an Indian State" by paragraph 4 (1) of the Adaptation of Laws Order, 1950

Order, 1950

which the [1][State] Government may, by general or special order, declare to be a company for the purposes of this Act ;

(7) "firm", "partner" and "partnership" have the same meanings respectively as in the Indian Partnership Act, 1932, provided that the expression "partner" includes any person who being a minor has been admitted to the benefits of partnership ; IX of 1932.

(8) "Hindu undivided family" means a Hindu undivided family governed by *mitakshara* law ;

(9) "person" includes a Hindu undivided family, a firm, [2][and a company] ;

(10) "prescribed" means prescribed by rules made under this Act ;

(11) "previous year" means—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have been so made up ;

(*b*) such period as may be determined by the Commissioner in the particular case of any person or class of persons ;

(*c*) in the case of income which is partially agricultural income from land and partially income chargeable under the Indian Income-tax Act, 1922, under the head "Business", and the business concerned has been newly set up in the financial year preceding the year for which the assessment is to be made, the period from the date of the setting up of such business to the 31st day of March next following, or to the last day for the period determined under sub-clause (*b*), or, if the accounts of the assessee are made up to some other date than the 31st day of March and the case is not one for which a period has been determined by the Commissioner under sub-clause (*b*), then at the option of the assessee, the period from the date of the setting up of such business to such other date : XI of 1922.

Provided that when such other date does not fall between the setting up of such business and the next following 31st day of March it shall be deemed that there is no previous year :

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[1] The word "State" within square brackets was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

[2] These words within square brackets were substituted for the words "a company" and the Ruler of an Indian State" by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

Provided further that where in this clause an option is exercisable by the assessee it shall not be exercisable more than once except with the consent of the Agricultural Income tax Officer and upon such conditions as such officer may think fit

Provided further that where in this clause an option is exercisable by the assessee and he has been assessed after he has exercised such option it shall not be exercisable by him again so as to vary the meaning of the expression 'previous year" as then applicable except with the consent of the Agricultural Income tax Officer

Provided also that where the assessee is a partner in a firm, the expression "previous year" in respect of his share of the agricultural income of the firm means the previous year as determined for the assessment of the agricultural income of the firm ,

(12) principal officer' used with reference to [1][a Part B State], a *company* or any *other* association means—

(*a*) (i) the manager or [illegible] [West Bengal] of the Ruler of the [3][[illegible]], or

(ii) the secretary, [illegible], manager or agent of the company or [illegible], *or*

(*b*) any individual [illegible] with the [3][Part B State], company or [illegible] upon whom an Agricultural Income-tax [illegible] has served a notice of his intention o[illegible] [illegible] him as the principal officer thereof ,

XLV of 0 (13) 'public servant' [illegible] same meaning as in the Indian Penal Code ,

(14) "received' used [illegible] reference to the receipt of the agricultural [illegible] by a person shall include—

(1) receipt by [illegible] or servant on behalf of a principal or [illegible] respectively,

(2) receip[illegible] [illegible] which are deemed to be his [illegible] [illegible] the provisions of this Act, and [illegible] receipts of agricultural [illegible] [illegible]ment of accounts with [illegible] ,

[4][* * * * * *]

(16) "[illegible] income" means the *total* [illegible] income referred to in *sec*[illegible] [illegible] in the manner laid *down* in [illegible]

[1]*See* foot no[illegible]

[2]*See* foot no[illegible]

[3]The words [illegible] within square brackets [illegible] Ind[illegible] [illegible] Adaptation of Laws

[4]Clause [illegible] [illegible] and the [illegible] of Laws [illegible]

(17) "total world income" means the sum of—

(*a*) the total world income as defined in the Indian Income-tax Act, 1922, and XI of 1922

(*b*) the total agricultural income as defined in this Act, and

(*c*) the agricultural income derived from land in [1][any State of India other than West Bengal]; and

(18) "written down value" means in respect of any irrigation or protective work, or any machinery, plant or other capital asset,—

(*a*) in the case of assets acquired in the previous year, the actual cost to the assessee,

(*b*) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation allowable to him under this Act in respect of such work, machinery, plant or other asset as the case may be.

CHAPTER I

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of agricultural income-tax.

3. Agricultural income-tax shall be charged for each financial year in accordance with and subject to the provisions of this Act, at the rate or rates specified in the Schedule in respect of the total agricultural income of the previous year of every individual, Hindu undivided family, company, firm or other [2][association of persons] and every Ruler of [3][a Part B State] :

[4][Provided that where any property from which agricultural income is derived is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not, in respect of such property, be assessed as an association of persons, but the share of each such person in the agricultural income from the property shall be included in his total agricultural income :]

Provided [5][further] that agricultural income-tax shall not be charged on the agricultural income of the Central Government or any [6][State] Government or any local authority.

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[1]The words within square brackets were originally substituted for the words "British India excepting Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 and thereafter the word "State" was substituted for the word "Province" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

[2]These words "association of persons" within square brackets were substituted for the words "association of individuals", by section 2 of the West Bengal Agricultural Income-tax (Amendment) Act, 1949 (West Ben. Act, III of 1949).

[3]*See* foot-note 3 on page 359, *ante*.

[4]These words within square brackets were inserted by section 3(*a*) of the West Bengal Agricultural Income-tax (Amendment) Act, 1949 (West Ben. Act III of 1949).

[5]This word "further" was inserted by section 3 (b), *ibid*.

[6]*See* foot-note 1 on page 360, *ante*.

Total agricultural income

4. Subject to the provisions of this Act, the total agricultural income of any previous year of any person comprises [illegible] ived from land situated within [illegible] ed by him within or without [illegible] ny Local Cess and Education [illegible] land to such person under the Cess Act, 1880, and the Bengal (Rural) Primary Education Act, 1930, respectively, but does not include—

[illegible]en Act [illegible] f 1880

[illegible]en Act VII f 1930.

(*a*) any agricultural income derived from land situated without [1][West Bengal],

(*b*) any agricultural income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes or in the case of Muslim trusts commonly known as Wakf al aulads, the income applied thereto

Explanation—In this section 'charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility

CHAPTER II

COMPUTATION OF AGRICULTURAL INCOME-TAX AND ALLOWANCES

Heads of charge to agricultural income tax

5 Save as otherwise provided by this Act, the following heads of agricultural income shall be chargeable to agricultural income tax, namely—

(i) agricultural income as defined in sub-clause (*a*) of clause (1) of section 2 (hereinafter referred to as "agricultural income from rent or revenue"),

(ii) agricultural income as defined in sub clause (*b*) of clause (1) of section 2 (hereinafter referred to as "agricultural income from agriculture")

in the manner hereinafter appearing

Computatio[n] of tax and [a]llowances under th[e] head 'Agri]cultural i[n]come fro[m] ren or rev[e]nue

6. Agricultural income tax shall be payable by an assessee under the head "Agricultural income from rent or revenue" in respect of all rent and revenue, including any Local Cess or Education Cess referred to in section 4 derived from land referred to in sub-clause (*a*) of clause (1) of section 2 included in his total agricultural income and received in the previous year, subject to the following allowances, namely —

(1) any sums paid by him in the previous year on account of—

(i) land revenue or rent,

(ii) any local rate or cess including Education Cess in respect of such land ,

(2) where his interest in such land is subject to a mortgage or other capital charge, the amount of a[n]y interest paid by him in the previous ye[a]r in respect of such mortgage or o[ther]

[1]*See* foot note 1 on page 3[illegible]8, *ante*

land has been acquired, reclaimed or improved by him by the use of borrowed capital, the amount of any interest paid by him in the previous year in respect of such capital :

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage, charge or capital as a borrower under section 30 of the Bengal Moneylenders Act, 1940 ; Ben. Act X of 1940.

(3) any sum paid by him in the previous year as interest on any loans taken by him under the Agriculturists' Loans Act, 1884, or the Land Improvement Loans Act, 1883, in respect of such land ; XII of 1884. XIX of 1883.

(4) in respect of the maintenance of any irrigation or protective work or other capital asset the amount paid in the previous year on account thereof.

Explanation.—"Maintenance" includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood, or other natural causes ;

(5) depreciation at the prescribed rate in respect of any irrigation or protective work or other capital asset, constructed or acquired after the commencement of this Act for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land;

(6) any sum paid by him in the previous year as premium in order to effect any insurance against loss of or damage to such land or any crops to be raised or cattle to be reared thereon ;

(7) in respect of the cost of collection of such rent or revenue including the cost of maintenance of any *katchari* or other capital assets and any expenses of litigation, a sum equal to fifteen *per centum* of the total amount of rent or revenue which accrued to him in the previous year in respect of the land from which such rent or revenue is derived :

Provided that in the case of an assessee who can produce his accounts audited and certified to be correct by an accountant, and at the option of such assesee recorded in writing the allowance shall be, instead of such sum, the actual cost of collection incurred during the previous year as determined by the Agricultural Income-tax Officer on the basis of such accounts, subject to a maximum equal to twenty *per centum* of the total amount of rent or revenue which accrued to him in the previous year in respect of the land from which rent or revenue is derived.

Explanation — 'Accountant" in this proviso has the same meaning as in clause (iii) of sub-section (2) of section 58 and includes the Accountant-General, [1][West Bengal], and any person auditing accounts under his direction and control

Provided further that the assessee, having once exercised the option to claim the actual cost on the basis of his accounts as the allowance admissible as aforesaid, shall not be entitled in any future year to claim instead the alternative allowance admissible except with the previous sanction of the Assistant Commissioner ,

(8) in the assessment made for each of the three financial years ending on the 31st March, 1945, the 31st March, 1946, the 31st March, 1947, respectively, in respect of the cost of collection of such rent or revenue and in addition to the allowance specified in clause (7), if the total amount of the rent or revenue received by the assessee in the previous year exceeds the total amount of rent or revenue which accrued to such assessee in the previous year by more than five *per centum* of such amount accrued, a sum equal to one-fifth of the amount by which such amount received exceeds such amount accrued ,

(9) when rent derived from such land is rent in kind the cost incurred by the assessee—

(i) in performing any process contemplated in item (ii) of sub-clause (b) of clause (1) of section 2 for rendering the produce which comprises such rent-in-kind fit to be taken to market;

(ii) in transporting such produce to market ,

(iii) in maintaining in good repair any agricultural implements or machinery and in providing for the upkeep of cattle for the purposes of such process or transport,

(10) any other expenditure of the assessee, not being in the nature of capital expenditure or personal expenditure, laid out wholly and exclusively for the purpose of deriving such agricultural income from such land

Comput of tax allowanc under head cultural come agricultu

7. Agricultural income-tax shall be payable by an assessee under the head "Agricultural income from agriculture" in respect of all agricultural income derived from land referred to in sub-cluase (b) of clause (1) of section 2 included in his total agricultural income and received by him in the previous year subject to the following allowances, namely —

(1) the cost incurred by the assessee in the previous year —

(i) in cultivating such land or raising livestock thereon

(*ii*) in performing any process contemplated in item (*ii*) of sub-clause (*b*) of clause (1) of section 2 for rendering the produce of such land fit to be taken to market ;

(*iii*) in transporting such produce or livestock to market ; and

(*iv*) in maintaining agricultural implements and machinery in good repair and in providing for the upkeep of cattle for the purpose of such cultivation, process, or transport :

Provided that in the case of an agricultural income derived from land possessed by an individual or a Hindu undivided family and cultivated by such individual or by the members of such family with or without the aid of servants or hired labourers or of both, the allowance admissible under this clause shall, instead of such cost, be a sum equal to fifty *per centum* of the market value of the produce raised from such land ;

(2) any sum paid by him in the previous year on account of—

(*i*) land revenue or rent ;

(*ii*) any local rate or cess including Education Cess, in respect of such land ;

(3) where his interest in such land is subject to a mortgage or other capital charge, the amount of any interest paid by him in the previous year in respect of such mortgage or charge, and where such land has been acquired, reclaimed or improved by him by the use of borrowed capital, the amount of any interest paid by him in the previous year in respect of such capital :

Provided that the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage, charge or capital as a borrower under section 30 of the Bengal Money-Lenders Act, 1940 ; Ben. Act X of 1940.

(4) any sum paid by him in the previous year as interest on any loans taken by him under the Agriculturists' Loans Act, 1884, or the Land Improvement Loans Act, 1883, in respect of such land ; XII of 1884. XIX of 1883.

(5) in respect of the maintenance of any irrigation or protective work or other capital assets the amount paid in the previous year on account thereof.

Explanation.—"Maintenance" includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes;

(6) depreciation at the prescribed rate in respect of any irrigation or protective work or other capital asset constructed or acquired after the commencement of this Act for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land,

(7) any sum paid by him in the previous year as premium in order to effect any insurance against loss of or damage to such land or any crops to be raised or cattle to be reared thereon ,

(8) in respect of any machinery or plant used exclusively for agricultural purposes which has been sold or discarded, the amount by which the written down value of the machinery or plant exceeds the amount for which the machinery or plant is actually sold or its scrap value

Provided that such amount is actually written off in the books of the assessee

(9) any other expenditure of the assessee not being in the nature of capital expenditure or personal expenditure laid out wholly and exclusively for the purpose of deriving such agricultural income from such land

(10) any other sum which may be prescribed

Computation of tax on mixed incomes.

8. (1) In the case of income which is partially agricul-
tural income assessable under this Act and partially income
2 chargeable under the Indian Income-tax Act, 1922, under
the head "Business", agricultural income-tax shall be payable by an assessee in respect of the market value determined in the manner prescribed of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilised as raw material in such business or the sale receipts of which are included in the accounts of the business, subject to any allowances which may be *permissible under the provisions of this Act* ,

Provided that,—

(*a*) where for the purposes of the assessment of income-tax under the Indian Income-tax Act, 1922, the market value of the said produce has been determined the market value as so determined shall be taken to be the market value for the purposes of this sub-section ,

(*b*) where there is a common charge on both agricultural income assessable under this Act and income chargeable under the Indian Income-tax Act, 1922, and such charge is an allowance permissible both under this Act and the Indian *Income-tax Act, 1922,* then, if for the
of the Indian Income-tax Act, 19
of such charge which is to be

allowance permissible under that Act has been determined under that Act, the remaining part of such charge shall be deemed to be the allowance to which agricultural income assessable under this Act is subject.

(2) Notwithstanding anything contained in this Act, in the case of tea [the plant *Camellia Thea* (Linn.)] grown in [1][West Bengal] and sold by the grower himself or his agent after manufacture, the agricultural income derived therefrom shall, as long as for the purposes of assessment of income-tax under the Indian Income-tax Act, 1922, the income derived therefrom is computed under that Act in such manner as to include agricultural income, be deemed to be that portion of such income as so computed on which income-tax is not payable under that Act, and agricultural income-tax at the rates specified in the Schedule shall be payable on the whole of such agricultural income as so computed. XI of 1922.

Explanation.—Where such income is derived from lands partially in and partially without [1][West Bengal], agricultural income tax shall be levied under this Act on such portion of that income as is attributable to lands in [1][West Bengal] according to the following principles, namely,—

(*i*) where the proportion of such income attributable to lands in [1][West Bengal] has been determined for the purposes of the Indian Income-tax Act, 1922, such apportionment shall be accepted as determining for the purposes of this sub-section the proportion of such income attributable to lands in [1][West Bengal];

(*ii*) where the proportion of such income attributable to lands in [1][West Bengal] cannot be determined by the method specified in clause (*i*) of this Explanation such proportion shall be determined in such manner as may be prescribed.

(3) For the purpose of the assessment of agricultural income-tax under this section or any rule made thereunder a certified copy of an order of an assessment under the Indian Income-tax Act, 1922, or a certified copy of an order of any appellate or revising authority or of the High Court or of [2][the Supreme Court] altering or amending such order of assessment under the provisions of that Act, shall be conclusive evidence of the contents of such order.

Computation of allowances where estates extend beyond West Bengal.

9. Where an allowance admissible under sections 6, 7 or 8 is in respect of a common payment made for the purpose of deriving agricultural income from land part of which is within and part without [1][West Bengal] such allowance shall be calculated as such proportion of the common payment as the agricultural income derived from the land

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[1]*See* foot-note 1 on page 358, *ante*.

[2]These words within square brackets were substituted for the words "His Majesty in Council" by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

within [1][West Bengal] bears to the agricultural income derived from all the land both within and without [1][West Bengal] in respect of which such common payment is made

10 [illegible] 'l not, subject to the that part of the total is— *Exemptions from assessment of tax*

(a) [2][any agricultural income which he receives as his share of agricultural income of a firm or association of persons which has paid the tax in respect of the said agricultural income],

(b) any sum which he receives as a member of a Hindu undivided family, the agricultural income of which has already been taxed,

(c) any sum paid by such person—

(i) to effect an insurance on the life of such person or on the life of a wife or husband or minor child of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or minor child of such person,

(ii) where the assessee is a Hindu undivided family, to effect an insurance on the life of any male member of such family or of the wife or a minor child of any such member

Provided that the aggregate of any sums exempted from assessment to agricultural income-tax under this clause shall not exceed one-sixth of the total agricultural income of the assessee

11. In computing the amount of any allowance or relief from assessment due under sections 6, 7, 8 or clause (c) of section 10 no part of such allowance or relief shall be included which constitutes a ground for relief from Indian Income-tax under the provisions of the Indian Income-tax Act, 1922 *Prevention of double relief*

1922

12. In computing the total agricultural income of any individual for the purpose of assessment there shall be included— *Inclusions to prevent evasion of tax*

(a) so much of the total agricultural income of a wife or minor child of such individual as arises directly or indirectly—

(i) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate *consideration or in connection with an agreement* to live apart,

(ii) from assets transferred directly or indirectly to the *minor child, not being a married* daughter, by such individual otherwise than for adequate consideration

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[1] *See* foot note 1 on page 358, *ante*

[2] Subs by West Bengal Act XXVIII of 19[illegible]

(*b*) so much of the total agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

CHAPTER III

LIABILITY TO ASSESSMENT IN SPECIAL CASES

Liability of guardian, trustee, agent, receiver or administrator.

13. Where any person receives any agricultural income derived from land,

(*a*) as a guardian, trustee or agent of any person being a minor, lunatic or idiot or person residing without [1][West Bengal] interested in such land or the agricultural income derived therefrom, or

(*b*) as a receiver or administrator appointed by or under the order of any Court in respect of such land or the agricultural income derived therefrom,

any agricultural income-tax payable under this Act on such income shall be levied upon and recoverable from such guardian, trustee, agent, receiver or administrator in like manner and to the same amount as would be leviable upon and recoverable from any such person if in direct receipt of such agricultural income and such guardian, trustee, agent, receiver or administrator shall be deemed to be the assessee in respect of the agricultural income-tax so payable by such minor, lunatic, idiot, person residing without [1][West Bengal] or other person, as the case may be, and all the provisions of this Act shall apply accordingly.

Liability of Court of Wards, Administrator-General and Official Trustees, etc.

14. In the case of agricultural income chargeable to agricultural income-tax under this Act derived from land which is received by the Court of Wards, an Administrator-General or an Official Trustee or any trustee or trustees [2][appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise] (including the trustee or trustees under any wakf deed which is valid under the Musalman Wakf Validating Act, 1913), or a common manager the agricultural income-tax payable under this Act on such income shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee or such other trustee or trustees or such common manager in the like manner and to the same amount as it would be leviable upon or recoverable from any personron whose behalf such agricultural income is received. andall the provisions of this Act shall apply accordingly. VI of 1913.

[1]*See* foot-note 1 on page 358, *ante*.

[2]These words within square brackets were substituted for the words "appointed under a duly executed trust deed" with retrospective effect by section 4 of the West Bengal Agricultural Income-tax (Amendment) Act, 1949 (West Bengal Act III of 1949).

Rateable payment by guardian, trustees etc

15. Where the agricultural income received on behalf of any person by any trustee, agent, receiver, Court of Wards, Official Trustee or common manager referred to in sections 13 and 14 is part only of the total agricultural income of such person, the agricultural income-tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax as so assessed shall be levied upon and recoverable from such trustee, agent , receiver, Court of Wards, Official Trustee or common manager and such person rateably according to the portion of the total agricultural income of such person received by such trustee, agent, receiver, Court of Wards, Official Trustee or common manager, as the case may be, and the portion received by such person

Residuary provisions for computation and recovery of tax under sections 13 and 14

16. (1) In any case falling under the provisions of sections 13 and 14 where any agricultural income or any part thereof is not specifically received on behalf of any one person, or where the individual shares of the persons on whose behalf such income is received are indeterminate or unknown, the tax shall be levied and recoverable at the rate applicable to the total amount of such income

(2) Nothing contained in sections 13 and 14 shall prevent either the direct assessment of a person therein referred to on whose behalf agricultural income is received, or the recovery from such person of the agricultural income-tax payable in respect of such income

Tax deemed to be paid on others' behalf by companies, firms and associations

17. [1][A firm or other association of persons which has paid agricultural income tax under this Act in respect of its agricultural income as such firm or association shall be deemed for the purposes of section 48 to have paid agricultural income-tax on behalf of the partners of such firm or the members of such association, as the case may be, on such part of the agricultural income of every individual partner or member as represents the portion of the agricultural income of such firm or association which is received by such partner or member]

Liability of ... deriv- agricul- income jointly for himself and others.

18. (1) Save as provided for in sections 13, 14 and 17 if a

agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such income had been derived solely for his own benefit, and agricultural income-tax at such rate shall be leviable upon and recoverable from such person in respect of such income

(2) Any person receiving agricultural income as referred to in sub section (1) may, before paying to any beneficiary any share of such agricultural income to which such beneficiary is entitled, deduct from such share the amount of r income-tax or its equivalent value in kind if paid in kind rateably paid in respect of such '

[1]Subs by West Bengal Act XXVIII of 1957

Explanation.—In this section "beneficiary" means a person entitled according to law to a portion of the agricultural income derived from such land.

Liability in case of discontinued firms or associations.

19. Where agricultural income is received by a firm or [1][association of persons] and the business of such firm or association is discontinued or such firm or association is dissolved every person who was a partner of such firm or member of such association at the time of such discontinuance or dissolution shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association and all the provisions of this Act shall, so far as may be, apply to such assessment.

Agents to include persons treated as such.

20. Any person employed by or on behalf of a person residing without [2][West Bengal] or through whom in the course of any business connection such person is in the receipt of any agricultural income upon whom the Agricultural Income-tax Officer has caused a notice to be served of his intention of treating such person as the agent of the non-resident person, shall for the purposes of this Act be deemed to be such agent:

Provided that no person shall be deemed to be the agent of a non-resident person unless he has had an opportunity of being heard by the Agricultural Income-tax Officer as to his liability.

CHAPTER IV

INCOME-TAX AUTHORITIES AND APPELLATE TRIBUNAL

Agricultural income-tax authorities.

21. (1) There shall be the following classes of agricultural income-tax authorities for the purposes of this Act, namely:—

(*a*) the Commissioner of Agricultural Income-tax, [2][West Bengal];

(*b*) the Assistant Commissioner of Agricultural Income-tax, [2][West Bengal];

(*c*) [2][West Bengal] Agricultural Income-tax Officers.

(2) The authorities specified in sub-section (1) shall be appointed by the [3][State] Government.

(3) The Commissioner of Agricultural Income-tax, [2][West Bengal], shall in respect of the whole of [2][West Bengal] exercise the powers conferred and perform the duties imposed on him by this Act and by such rules as may be prescribed.

(4) The Assistant Commissioner of Agricultural Income-tax, [2][West Bengal], shall exercise in respect of the whole of [2][West Bengal], all the powers provided under section 34

[1]*See* foot-note 2 on page 362, *ante*.

[2]*See* foot-note 1 on page 358, *ante*.

[3]*See* foot-note 1 on page 360, *ante*.

and such powers of the Commissioner under this Act or the rules made thereunder, except the powers provided under section 37, as may be delegated to him by the Commissioner with the approval of the [1][State] Government

(5) The [2][West Bengal] Agricultural Income tax Officers, shall, in respect of such areas as the [1][State] Government may by notification determine, exercise the powers conferred and perform the duties imposed on them by this Act and by such rules as may be prescribed

22. (1) The [1][State] Government shall from time to time appoint, as and when may be necessary for the purpose of hearing appeals preferred under section 36, an Appellate Tribunal consisting of three members Appellate Tribunal

(2) The Appellate Tribunal shall consist of one judicial member, one lawyer member and one accountant member as hereinafter defined,—

(*a*) the judicial member shall be a person who has exercised the powers of a District Judge in [2][West Bengal] or who possesses such qualifications as are normally required for appointment to the post of District Judge in [2][West Bengal],

(*b*) the lawyer member shall be a barrister or advocate of the High Court of Calcutta or a pleader who has practised professionally for a period of not less than five years or an Agricultural Income tax practitioner who holds a degree in law of any Indian University and has practised professionally for a period of not less than five years

Explanation —Agricultural Income-tax practitioner in this clause has the same meaning as in clause (*iv*) of sub section (2) of section 58,

(*c*) the accountant member shall be a person who has, for a period of not less than six years, practised professionally as a Registered Accountant enrolled on the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932

Provided that the [1][State] Government may appoint as accountant member of the Tribunal a person not qualified as required by this clause if the [1][State] Government is satisfied that he is qualified in accountancy and has adequate experience of a character which renders him suitable for appointment to the Tribunal

(3) The appointment of any member of the Tribunal shall be for such period as the [1][State] Government may determine and the period so determined may be extended from

[1]See foot-note 1 on page 360, *ante*
[2]See foot-note 1 on page 358, *ante*

time to time by the [1][State] Government for such further period or periods as the [1][State] Government may consider necessary.

(4) The judicial member shall be President of the Appellate Tribunal and during any period during which the appointment of a lawyer member or an accountant member is not made the President of the Appellate Tribunal shall for the purpose of the admisson of appeals under section 36 be deemed to possess all the powers of the Appellate Tribunal.

(5) If the members of the Appellate Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.

(6) The procedure of the Appellate Tribunal in all matters relating to the discharge of its functions, including the place or places of its sittings, shall be as prescribed.

CHAPTER V

MACHINERY OF ASSESSMENT

[2][23].

Return of agricultural income.

24. (1) The Agricultural Income-tax Officer shall, on or before such date in each year as may be prescribed, give notice, by publication in such newspapers and in such other manner as may be prescribed requiring every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (alongwith such other particulars as may be required by the notice) his total agricultural income during that year :

Provided that the Agricultural Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons and shall in the case of agricultural income assessable under section 8 allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment order under the Indian Income-tax Act, 1922. XI of 1922.

(2) In the case of any person whose [3][total agricultural income] is, in the Agricultural Income-tax Officers opinion, of such an amount as to render such person liable to agricultural income-tax, the Agricultural Income-tax Officer may serve a notice upon him requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified

[1] *See* foot-note 1, page 360, *ante*.

[2] Section 23 was deleted by West Bengal Act XXVIII of 1957.

[3] These words within square brackets were substituted for the words "total income" by section 5 of the West Bengal Agricultural Income-tax (Amendment) Act, 1949 (West Bengal Act III of 1949).

in the prescribed manner setting forth along with such other particulars as may be provided for in the notice his total agricultural income during the previous year

Provided that the Agricultural Income tax Officer may in his discretion extend the date for the delivery of the retrun and shall in the case of agricultural income assessable under section 8 allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment
1922. order under the Indian Income tax Act, 1922.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2) or having furnished a return under either of these sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

(4) The Agricultural Income-tax Officer may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be there in specified, to produce or cause to be produced such accounts or documents as the Agricultural Income-tax Officer may require

Income-tax Officer may
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unts or documents to be
produced on a date later than that specified in the notice :

Provided further that the Agricultural Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

2)
witho Assessment.
tion
24 is correct and complete, he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return

section 24 is correct and complete, he shall serve on such person, a notice requiring him, on a date to be therein specified, either to attend at the Agricultural Income-tax Officer's office or to produce, to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-

tural Income-tax Officer may require on
shall, by an order in writing, assess the
income of the assessee, and determine the

(4) The powers conferred by Sub-sections (2) and (3) shall not except with the permission of the Commissioner be exercised by the Agricultural Income-tax Officer in the case of agricultural income which is assessed under the provisions of sub-section (2) of section 8 and regarding which an assessee has submitted together with his return under section 24 a certified copy of an assessment order under the Indian Income-tax Act, 1922. XI of 1922.

(5) If any person fails to make the return required by any notice given under sub-section (2) of section 24 and has not made a return or a revised return under sub-section (3) of the same section or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, or fails to produce before the Agricultural Income-tax Officer any order under the Indian Income-tax Act, 1922, or a certified copy thereof, which may be necessary under the provisions of this Act for the purpose of enabling any assessment to be made under section 8 such officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

Set off of loss in computing taxable agricultural income.

26. (1) Where in any year under either head of agricultural income specified in section 5 it is computed that the sum on which agricultural income tax is payable by the assessee is a negative quantity the assessee shall be deemed to have sustained a loss under that head to that extent and such loss shall be set off against the sum computed under the other head of agricultural income as that on which agricultural income-tax is payable in the same year.

(2) Where the total sum computed under both heads of agricultural income as that on which agricultural income-tax is payable by an assessee in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1945, is a negative quantity, the assessee shall be deemed to have sustained a loss to that extent in that year, and such loss shall be carried forward to the following year and set off against the sum on which agricultural income-tax is computed to be payable in such year, and if such loss cannot be wholly set off in such year the amount of such loss not so set off shall be carried forward in the same manner to the next following year and so on, but no amount of such loss shall be carried forward for more than six successive years.

Tax of deceased person payable by representative.

27. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the agricultural income-tax assessed as payable by such person, or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before the publication of the notice referred to in sub-section (1) of section 24 or before he is served with a notice under sub-section (2) of section 24

or section 38, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 24 or under section 38, as the case may be, comply therewith, and the Agricultural Income-tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee

(3) Where a person dies without having furnished a return which he has been required to furnish under the provisions of section 24 or having furnished a return which the Agricultural Income-tax Officer has reason to believe to be incorrect or incomplete, the Agricultural Income-tax Officer may make an assessment of the total agricultural income of such person and determine the agricultural income-tax payable by him on the basis of such assessment, and for this purpose may by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representatives of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 8, 24 and 25 have required from the deceased person

Assessment in case of discontinued firm or association

28. (1) Where agricultural income is received by a company, firm or [1][association of persons] and the business through which such agricultural income is received by such company, *firm or association* is *discontinued in any year*, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the agricultural income so received in the previous year

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of such discontinuance within thirty days thereof, and where any person fails to give the notice required by this sub section, the Agricultural Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or [1][*association of persons*] *up to the date of the discontinuance* of its business

Change in constitution of a firm or ownership of business.

29. (1) Where, at the time of making an assessment under section 25, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted, at the time of making the assessment.

(2) Where a person carrying on any business in course of which agricultural income is received has been succeeded in such capacity by another person, such person and such

person shall each be assessed in respect of his actual share of the agricultural income of the previous year :

Provided that, when the person succeeded cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.

Assessment after partition of a Hindu undivided family.

30. (1) Where, at the time of making an assessment under section 25, it is claimed by or on behalf of any member of a Hindu undivided family hitherto assessed as undivided that a partition has taken place among members or groups of members of such family, the Agricultural Income-tax Officer shall make due inquiry thereinto, and, if a certified copy of a decree of a competent Civil Court for partition of the joint family property or a document purporting to show that there is separate possession and enjoyment of such property is produced, and in the case of a document other than a certified copy of a decree the Agricultural Income-tax Officer is satisfied that such document has been acted upon by the parties thereof, or if the Agricultural Income tax Officer is otherwise satisfied that the Hindu undivided family has ceased to exist as such and the agricultural income is being enjoyed separately by the members or groups of the members of such family in definite shares, he shall record an order to that effect :

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, the Agricultural Income-tax Officer shall make an assessment of the total agricultural income received by or on behalf of the joint family as such, as if no partition had taken place, and each member or group of members shall, in addition to any agricultural income-tax for which he or it may be separately liable and notwithstanding anything contained in clause (*b*) of section 10, be liable for a share of the agricultural income-tax on the agricultural income so assessed according to the portion of the joint family property allotted to him or it; and the agricultural Income-tax Officer shall make assessment accordingly on the various members and groups of members in accordance with the provisions of section 25 :

Provided that all the members and groups of members whose joint family property has been partitioned during previous year shall be liable jointly and severally for the agricultural income-tax assessed on the total agricultural income received by or on behalf of the joint family as such up to the date of partition.

(3) Where such an order has not been passed in respect of a Hindu *family hitherto assessed as undividad, such family* shall be deemed for the purposes of this Act to continue to be a Hindu undivided family

31. Where an assessee within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Agricultural Income tax Officer that he was prevented by sufficient cause from making the return required by section 24 or that he did not receive the notice issued under sub section (4) of section 24, or sub section (2) of section 25, or that he had not a reasonable opportunity to comply, *or was prevented by sufficient cause from complying,* with the terms of the last mentioned notices, the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 25

Cancellation of assessment where cause is shown

32. (1) If the Agricultural Income tax Officer, the *Assistant* Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, is satisfied that any person—

Penalty for concealment of income

(*a*) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish by notice given under sub section (1) or sub section (2) of section 24 of section 38 or *has without reasonable cause failed to furnish it* within the time allowed and in the manner required by such notice, or

(*b*) has without reasonable cause failed to comply with a notice under sub section (4) of section 24 or sub section (2) of section 25, or

(*c*) has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty, in the case referred to in clause (*a*), in addition to the amount of the agricultural income-tax payable by him a sum not

[illegible]

returned by such person had been accepted as the correct *agricultural income* ·

Provided that—

(*a*) no penalty for failure to furnish the return of his total agricultural income shall be imposed on an assessee whose total agricultural income is less than five thousand rupees unless he has been served with a *notice under sub-section (2) of section 24,*

(*b*) where a person has failed to comply with a notice under sub-section (2) of section 24 of section 38 and proves that he has no income liable to agricultural

income-tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees.

(2) No order shall be made against a person under sub-section (1) unless such person has been heard or has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(4) When the Appellate Tribunal, the Commissioner or the Assistant Commissioner makes an order under sub-section (1) he shall forthwith send a copy of the same to the Agricultural Income-tax Officer concerned.

Notice of demand.

33. When any agricultural income-tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Act.

34. (1) Any assessee objecting to the amount of agricultural income assessed under section 25 or section 31 or the amount of loss computed under section 26 or the amount of agricultural income-tax determined under section 25 or section 31 or denying his liability to be assessed under this Act or objecting to a refusal of an Agricultural Income-tax Officer to make a fresh assessment under section 31 or objecting to any order under section 30 or section 32 made by an Agricultural Income-tax Officer or objecting to any order imposing any penalty by an Agricultural Income-tax Officer under sub-section (1) of section 45 or objecting to a refusal of an Agricultural Income-tax Officer to allow a claim to a refund under sections 47, 48 or 51 or the amount of the refund allowed by the Agricultural Income-tax Officer under any of those sections, may appeal to the Assistant Commissioner against the assessment or against such refusal our order :

Provided that no appeal shall lie against an order under sub-section (1) of section 45 unless the agricultural income-tax has been paid.

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to or of the intimation of the refusal to pass an order under sub-section (1) of section 30 or of the date of the refusal to make a fresh assessment under section 31 or of the intimation of an order under sections 47, 48 or 51, as the case may be; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

Hearing of appeal.

35. (1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing

Provided that if the assessee or his agent is not present before the Assistant Commissioner when such day and place are fixed or such adjournment is made, the Assistant Commissioner shall inform the assessee or his agent by notice sent by post of the day and place fixed or of any date to which the hearing of such appeal is adjourned, as the case may be.

(2) The Assistant Commissioner may, before disposing of any appeal make such further inquiry as he thinks fit, or cause further inquiry to be made by the Agricultural Income-tax Officer

(3) The Assistant Commissioner may, at the hearing of
o go into any ground of
of appeal, if the Assistant
(- omission of that ground
from the form of appeal was not wilful or unreasonable

(4) In disposing of an appeal, the Assistant Commissioner may—

(*a*) in the case of an order of assessment—

(i) confirm, reduce, enhance or annul the assessment, or

(ii) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after making such further inquiry as the Agricultural Income-tax Officer thinks fit or the Assistant Commissioner may direct, and the Agricultural Income-tax Officer shall thereupon proceed to make such fresh assessment and determine where necessary the amount of agricultural income tax payable on the basis of such fresh assessment; or

(*b*) in the case of an order under section 47, section 48 or section 51 confirm, cancel or vary such order, or

(*c*) in the case of an order under sub-section (1) of section 30, confirm such order or cancel it and either direct the Agricultural Income tax Officer to make further inquiry and pass a fresh order [1][or] to make an assessment in the manner laid down in sub-section (2) of section 30, or

(*d*) in the case of an order under section 32 or sub-section (1) of section 45, confirm or cancel such order or vary it so as either to enhance or reduce the penalty, or

[1]This word "or" within square brackets was inserted by section 2 of, and the First edule to, the West Bengal Repealing and Amending Act, 1949 (West Ben. Act XIX of 9)

(*e*) in the case of an appeal against a computation of loss under section 26, confirm or vary such computation:

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty or reduce a refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or such reduction.

(5) The Assistant Commissioner shall on the conclusion of the appeal communicate the orders passed by him to the assessee and to the Commissioner.

Procedure of appeal to the Appellate Tribunal.

36. (1) Any assessee objecting to an order passed by the Assistant Commissioner under section 32 or section 35 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him.

(2) The Commissioner may, if he objects to an order passed by the Assistant Commissioner under section 35, direct the Agricultural Income-tax Officer to appeal to the Appellate Tribunal against such order and in such case the Agricultural Income-tax Officer shall make the appeal within sixty days from the date on which the order is communicated to the Commissioner by the Assistant Commissioner.

(3) The Appellate Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if [1][it] is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of twenty-five rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, and shall communicate such orders to the assessee and to the Commissioner.

(6) Save as provided in section 63 the orders passed by the Appellate Tribunal on appeal shall be final.

(7) Where an appeal is made to the Appellate Tribunal under this section the costs shall be in the discretion of the said Tribunal.

Power of rivision by Commissioner.

37. (1) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he inks fit.

[1]This word "it" within square brackets was substituted for the word "he" by sec 2 of, and the First Schedule to, the West Bengal Repealing and Amending Act, 1949 (W Bengal Act XIX of 1949).

Provided that the Commissioner shall not revise any order under this sub section if—

(*a*) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired , or

(*b*) the order is pending on an appeal before the Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal , or

(*c*) the order has been made more than one year previously

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order, call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

Provided that the Commissioner shall not revise any order under this sub section if—

(*a*) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal , or

(*b*) \

(*c*) the order has been made the subject of an appeal to the Appellate Tribunal

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee

(3) Every application by an assessee under sub section (2) shall be accompanied by a fee of twenty five rupees

38. (1) If in consequence of definite information which has come into his possession the Agricultural Income-tax Officer discovers that agricultural income chargeable to agricultural income-tax has escaped assessment in any year, or has been under-assessed, or has been assessed at too low a rate, or has been the subject of excessive relief under this Act, the Agricul- Income escaping assessment

I of 1922. Act, 1922 under the head 'Business' or in which he has reason

[1]These words and figures within square brackets were substituted for the words "a.. ny time within four years" by section 6 (*a*) of the West Bengal Agricultural Income-ta..

to believe that the assessee has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars thereof, at any time within six years, and in any other case at any time within four years] of the end of that year serve on the person liable to pay agricultural income-tax on such agricultural income, or in the case of a company or the Ruler of [1][a Part B State], on the principal officer of such company or State, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 24 and may proceed to assess or re-assess such agricultural income and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the agricultural income-tax shall be charged at the rate at which it would have been charged had the agricultural income not escaped assessment or full assessment, as the case may be.

[2][(2) No order of assessment under section 25 or of assessment or re-assessment under sub-section (1) shall be made after the expiry, in any case in which section 8 or clause (c) of sub-section (1) of section 32 applies, of six years and, in other case, of four years from the end of the year in which the agricultural income was first assessable :

Provided that nothing contained in this sub-section shall apply to a re-assessment made in pursuance of an order under section 35, section 36, section 63 or section 64].

...n mistake.

39. (1) The Commissioner may at any time within four years from the date of any order passed by him in revision under section 37, the Appellate Tribunal or the Assistant Commissioner may, at any time within four years from the date of any order passed by it or him on appeal and the Agricultural Income-tax Officer may, at any time within four years from the date of any assessment order or refund order passed by him, on his own motion rectify any mistake apparent from the record of the revision, appeal, assessment or refund, as the case may be, and shall within the like period rectify any such mistake which has been brought to his notice by an assessee :

Provided that no such rectification shall be made, having the effect of enhancing an assessment or reducing a refund unless the Commissioner, the Appellate Tribunal, the Assistant Commissioner or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee.

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[1]*See* foot-note 3 on page 359, *ante*.

[2]Sub-section (2) of section 38 was substituted for the original sub-section (2) by section 6(*b*) of the West Bengal Agricultural Income-tax (Amendment) Act, 1949 (West Ben. Act III of 1949).

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund the Agricultural Income-tax Officer shall serve on the assessee a notice of demand
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(4) Any assessee objecting to any such rectification which has the effect of enhancing the assessment or reducing a refund may, within thirty days of receipt of the notice of demand referred to in sub-section (3), appeal—

(*a*) in the case where the rectification is made by an Agricultural Income-tax Officer, to the Assistant Commissioner and the provisions of sub-section (3) of section 34 and section 35 shall apply to every such appeal as if it were an appeal against an order of assessment under section 25 or an order of refund under section 47 or section 48 ;

(*b*) in the case where the rectification is made by the Assistant Commissioner to the Appellate Tribunal and the provisions of sub-sections (4), (5), (6)

Provided that the provisions of section 63 shall not apply to any order passed by the Appellate Tribunal on any such appeal.

[1][40.]

41. The Agricultural Income-tax Officer, the Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this Chapter, and the Commissioner shall, for the purposes of section 37, have the same [2][powers] as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath etc.

7 of 1908

(*a*) enforcing the attendance of any person and examining him on oath or affirmation ,

(*b*) compelling the production of documents ; and

(*c*) ;

and an x
Officer, al
under this Chapter or before the Commissioner under section 37, shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

XLV of

42. The Agricultural Income-tax Officer or Assistant Commissioner may, for the purposes of this Act—

Power to call for information

(1) require any firm or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses ;

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[1] Section 40 was deleted by West Bengal Act XXVIII of 1957.

[2] This word "powers" within square brackets was substituted for the word "power" section 2 of, and the First Schedule to, the West Bengal Repealing and Amending Act (West Bengal Act XIX of 1950).

(2) require any person whom he has reason to believe to be trustee, guardian, common manager, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, common manager, or agent, and of their addresses.

Power to inspect the register of members of any company.

43. The Agricultural Income-tax Officer or any person authorised by him in writing in this behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

CHAPTER VI

RECOVERY OF TAX AND PENALTIES

Tax when Payable.

44. (1) Any amount specified as payable in a notice of demand under section 33 or an order under section 35, section 36 or section 37, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default :

Provided that where an assessee has presented an appeal under section 34, or under clause (a) of sub-section (4) of section 39, if such assessee makes an application to the Agricultural Income-tax Officer, supported by a certified copy of an order by the Assistant Commissioner or a certified copy of any entry in any register maintained by the Assistant Commissioner showing that such appeal has been presented [1][,] for an extension of the period allowed for payment of the said tax until the appeal is disposed of, the Agricultural Income-tax Officer shall, unless the Assistant Commissioner for reasons to be recorded in writing directs otherwise, extend such period until the disposal of the said appeal.

(2) If an assessee makes an application within the time mentioned in the notice of [2][demand under] section 33 for being allowed to pay the tax due by instalments, the Agricultural Income-tax Officer may in his discretion, by order in writing allow the assessee to pay the tax due in instalments not exceeding four in number at such intervals as the said officer may fix in his discretion :

Provided that if as a result of an application made by the assessee, the Agricultural Income-tax Officer allows the assessee to pay the tax due in instalments, the assessee shall be deemed to have waived all his rights of appeal under this Act :

Provided further that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment he shall be deemed to be a defaulter in respect of the total remaining amount of tax due.

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[1]This comma within square brackets was inserted after the word "presented" by section 2 of, and the First Schedule to, the West Bengal Repealing and Amending Act, 1949 (West Bengal Act XIX of 1949).

[2]These words within square brackets were substituted for the words "demand in" *ibid.*

45. (1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding half that amount shall be recovered from the assessee by way of penalty. Mode and time of recovery.

(2) For the purposes of sub-section (1), the Agricultural Income-tax Officer may direct the recovery of any sum less than half the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed half the amount of the arrears payable

(3) The Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue

Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have [1]* * * * *
V of 1908 the powers which under the Code of Civil Procedure, 1908, a Civil Court has [1]* * * * for the purpose of the recovery of an amount due under a decree

(4) No proceeding for the recovery of any tax payable under this Act shall be commenced after the expiration of three years after,—

(*a*) the last date on which the tax is payable without the assessee being deemed to be in default, or

(*b*) the date on which the last instalment fixed under sub-section (2) of section 44 falls due, or

(c) the date on which any appeal relating to the payment of tax has been disposed of,

whichever is the later·

[2][*Provided that in computing* the said period of three years the time during which the recovery of arrears of agricultural income-tax has been stayed either wholly or in part by an injunction or any other order of a competent court shall be excluded]

46. Any sum imposed by way of penalty under this Act shall be recoverable in the manner provided in this chapter for the recovery of arrear of agricultural income-tax. Recovery of penalties.

[1]The words "in respect of the attachment and sale of debts due to the assesseee"

CHAPTER VII

REFUNDS

Refunds.

47. (1) If any individual, Hindu undivided family, company, Ruler of [1][a Part B State], firm or other association of persons satisfies the Agricultural Income-tax Officer that the amount of agricultural income-tax paid by him or by it or on his or its behalf or treated as paid on his or its behalf for any year exceeds the amount with which he or it is properly chargeable under this Act for that year, he or it shall be entitled to a refund of any such excess.

(2) The Assistant Commissioner in the exercise of his appellate powers or the Commissioner in the exercise of his powers of revision if satisfied to the like effect shall cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person such other person only shall be entitled to a refund under this section in respect of such agricultural income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief.

Refunds of tax deemed to have been paid by companies, firms and associations on behalf of others.

48. [2][(1) Notwithstanding anything in section 47, a partner of a firm or a member of an association of persons on whose behalf agricultural income-tax is, by section 17, deemed to have been paid by such firm or association, shall be entitled to a refund of agricultural income-tax on account of any difference between the rate of agricultural income-tax applicable under this act to the total agricultural income of such firm or association and the average rate which would be applicable to the total world income of such partner or member if such total world income were agricultural income chargeable to agricultural income-tax under this Act.

(2) Any partner of a firm or member of an association of persons who is deemed to be entitled under the provisions of sub-section (1) to a refund of agricultural income-tax in respect of the previous year may apply to the Agricultural Income-tax Officer in the prescribed manner for such refund, and if the Agricultural Income-tax Officer after such inquiry as he thinks necessary is satisfied that a refund under the provisions of sub-section (1) is due he shall compute the amount of such refund according to the provisions of sub-section (3) and such amount shall be paid to the partner or member, as the case may be.

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[1]*See* foot-note 3 on page 359, *ante*.

[2]Substituted by West Bengal Act XXVIII of 1957

(3) The amount of any refund of agricultural income-tax due under the provisions of sub-section (1) shall be the product of the amount of agricultural income on which tax is deemed to have been paid by a firm or association of persons and has been received by a partner or member, as the case may be, and the difference between the rate of agricultural income-tax applicable to the total agricultural income of the said firm or association chargeable to agricultural income-tax under this Act, and the average rate of such tax applicable to an amount equivalent to the total world income of such partner or member in the previous year]

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if his total world income in the previous year were agricultural income chargeable to agricultural income-tax at the rates applicable under this Act by the said total world income.

(5) For the purpose of determining the total world income,—

(*a*) where the total world income of an assessee under the of 1922. Indian Income-tax Act, 1922, has been computed for the purposes of that Act, that computation shall be accepted as determining the total world income under that Act for the purposes of this Act and if such a computation has not been made the total world income of an assessee under that Act shall be computed in the manner prescribed,

(*b*) the agricultural income derived from land outside [2][West Bengal] shall be calculated in the manner prescribed

Explanation—A certified copy of an order computing the total world income under the Indian Income-tax Act, 1922, shall be conclusive evidence of the contents thereof

49. (1) The [3][State] Government may, by notification in the *Official Gazette*, make provision for the granting of relief in respect of agricultural income on which both agricultural income tax under this Act and other income-tax have been paid Reciprocal relief in respect of double taxation with other Governments

(2) For the purposes of this section "other income-tax" means any income-tax, super-tax or sur-tax charged under—

(*a*) any law of a [3][State] other than [2][West Bengal] in force in that [3][State] or

(*b*) any law in force in any [4][Part B State] or in any part of His Majesty's Dominions, or in the United Kingdom

[1]These words within square brackets were substituted for the words 'by assessee," ection 2 of, and the First Schedule to, the West Bengal Repealing and Amending Act, 9 (West Bengal Act XIX of 1949).

[2]*See* foot-note 1 on page 358, *ante*.

[3]*See* foot-note 1 on page 360, *ante*

where the laws of such [1][State], State or part of His Majesty's Dominions, or of the United Kingdom, as the case may be, provide for relief in respect of tax charged on income both in such [1][State], State or part of His Majesty's Dominions, or in the United Kingdom, as the case may be, and in [2][West Bengal] which appears to the [1][State] Government to correspond to the relief which may be granted under this section.

Power to set off amount of refunds against tax remaining payable.

50. Where under any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income-tax Officer, the Assistant Commissioner or the Commissioner, as the case may be, may in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

Power of representative of deceased person or persons disabled to make claim on his behalf.

51. Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 47 or section 48 is unable to receive such refund or to make such claim, his executor, administrator or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

Limitation of claims for refunds.

52. No claim to any refund of agricultural income-tax under this chapter shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received.

CHAPTER VIII

OFFENCES AND PENALTIES

Failure to make payments or deliver returns or statements or allow inspections.

53. (1) If a person fails without reasonable cause or excuse—

(*a*) to furnish in due time any of the returns mentioned in section 24 or section 42 ;

(*b*) to produce or cause to be produced, on or before the last date allowed by the Agricultural Income-tax Officer under the first proviso to sub-section (4) of section 24 or the date mentioned in the notice under the said sub-section, whichever is the later, such accounts, or documents as are referred to in the notice ;

(*c*) to grant inspection or allow copies to be taken in accordance with the provisions of section 43

he shall, on conviction of such offence before a Magistrate, be punishable with a fine which may extend to fifty rupees.

(2) If a person after having been convicted of any offence referred to in sub-section (1) continues to commit such offence, he shall be punished for each day after the first during which he continues so to offend with fine which may extend to five rupees.

[1]*see* foot-note 1 on page 360, *ante*.

[2]*see* foot-note 1 on page 358, *ante*

54. If a person makes a statement in a verification mentioned in section 24 or sub-section (3) of section 34 or sub-section (4) of section 36 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees or with both

False statement in declaration

55. (1) A person shall not be proceeded against for an offence under section 53 or section 54 except at the instance of the Commissioner

Prosecution to lie at the instance of Commissioner

(2) The Commissioner may, subject to such conditions as may be prescribed, either before or after the institution of proceedings compound any such offence

56. (1) All particulars contained in any statement made,

Disclosure of

Act other than proceedings under this Chapter, or in any record of any assessment [1]** proceeding or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwith-

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before it any such return, accounts, documents or record or any part of such record, or to give evidence before it in respect thereof

(2) If, save as provided in sub section (3), any servant of the [2][Government] discloses any of the particulars referred to in sub section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

(3) Nothing in this section shall apply to—

V of

(a) the disclosure of any of the particulars referred to in sub section (1) for the purposes of a prosecution under the Indian Penal Code in respect of any such statement, returns, accounts, documents, affidavit deposition, record or evidence or for the purposes of carrying into effect the provisions of this Act ,

(b) the disclosure to an officer of the Central Government of such facts as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it on income other than agricultural income ,

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ne comma after the word "assesment" in sub-section (1) of section 56 was omitted on 2 of, and the First Schedule to, the West Bengal Repealing and Amending Act, West Bengal Act XIX of 1949)

[2] foot note 3 on page 358, *ante*

(*c*) the production by a servant of the [1][Government] before a Court of any document, declaration or affidavit filed or the record of any statement or deposition made in a proceeding under section 30 or to the giving of evidence by a servant of the [1][Government] in respect thereof.

(4) No prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

CHAPTER IX

MISCELLANEOUS

Power to make rules.

57. (1) The [2][State] Government may, subject to the condition of previous publication, make rules consistent with the provisions of this Act for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe in accordance with the provisions of this Act the manner of ascertainment and determination of agricultural income ;

(*b*) prescribed the procedure to be followed on application for refunds allowable under this Act ;

(*c*) provide for any matter which by this Act is to be prescribed.

Appearance by authorised representative.

58. (1) An assessee, who is entitled or required to attend before the Appellate Tribunal or any agricultural income-tax authority in connection with any proceeding under this Act otherwise than when required under section 41 to attend personally for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or agricultural income-tax practitioner, and not being disqualified by or under sub-section (3).

(2) In this section—

(*i*) a person regularly employed by the assessee shall include any officer of a banking company with which the assessee maintains a current account or has other regular dealings.

Explanation.—"Banking company" means a banking company as defined in [3]section 277F of the Indian Companies Act, 1913 ; VII of 1913

[1]*See* foot-note 3 on page 358, *ante*.

[2]*See* foot-note 1 on page 360, *ante*.

[3]Section 277F and the following sections 277G to 277N under the heading "Banking Companies" in Part XA of the Indian Companies Act, 1913 (VII of 1913) were repealed and re-enacted by the Banking Companies Act, 1949 (X of 1949) and references to any provisions of the former Act under the said Part XA should be construed as references to the corresponding provisions of the latter Act.

(ii) "lawyer" mean a Barrister-at law or Solicitor or any other person entitled to plead in any Court of law in [1][the whole of India except Part B States],

(iii) "accountant" means a registered accountant enrolled in the Register of Accountants, maintained by the Central Government under the Auditor's Certificate Rules, 1932 or holder of a restricted certificate under the Restricted Certificate Rules, 1932 or a member of an Association of Accountants recognised by the Central Board of Revenue,

[2][(iv) "agricultural income-tax practitioner" means any person who has acquired such educational qualifications as may be prescribed and who has, subject to the payment of such fees as may be prescribed, been registered in the manner prescribed as such a practitioner]

(3) If any lawyer or registered accountant is found guilty of misconduct in connection with any agricultural income tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent an assessee under sub section (1)

Provided that—

(a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(b) any person against whom such direction is made may, within one month of the making of the direction appeal to the High Court, and

(c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred until the disposal of the appeal

Receipts to be given

59. A receipt shall be given for any money paid or recovered under this Act

Service of notices

60. (1) A notice or requisition under this Act may be served on the person therein named either by post, or as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908

(2) Any such notice or requisition may—

(a) in the case of a firm, or a Hindu undivided family, be addressed to any member of the firm or to the manager of the family, and

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[1] The words "all tl ... or the words ... sh India" by the Ind ... and there- these words within ... Provinces of " by paragraph 4(1) of the Adaptation of Laws Order, 1950

[2] Clause (iv) was substituted for the original clause by the West Bengal Agricultural Income-tax (Amendment) Act, 1949 (West Bengal Act III of 1949), s 8

(b) in the case of the Ruler of [1][a Part B State], a company or any other [2][association of persons] be addressed to the principal officer thereof.

Place of assessment.

61. (1) Where an assessee is a company having a registered office in [3][West Bengal], it shall be assessed by the Agricultural Income-tax Officer of the area in which such registered office is situated.

(2) Where an assessee is a company not having a registered office in [3][West Bengal] or is a firm or other [2][association of persons] it shall be assessed by the Agricultural Income-tax Officer of the area where the principal accounts relating to its agricultural income are kept.

(3) In all other cases the assessee shall be assessed by the Agricultural Income-tax Officer of the area in which such assessee resides and where the assessee resides outside [3][West Bengal] by the Agricultural Income-tax Officer of the area in which the agent or the principal officer of such assessee resides:

Provided that if the accounts relating to the agricultural income of an assessee are kept in any place in [3][West Bengal], such assessee shall have the option of being assessed by the Agricultural Income-tax Officer of the area in which such place is situated.

Explanation.—In the case of a Hindu undivided family, an assessee shall for the purpose of this sub-section be deemed to reside where the manager of the family resides.

(4) Where an option is exercisable by an assessee under the proviso to sub-section (3), he shall exercise such option within thirty days of the publication of the notice under sub-section (1) of section 24 or where a notice under sub-section (2) of that section is served, within thirty days from the service of such notice.

(5) Where any question arises under this section as to the place of assessment, such question shall be determined by the Assistant Commissioner after giving the assessee an opportunity of being heard.

(6) Where an assessment has once been made under this Act by an Agricultural Income-tax Officer, no objection relating to the place of assessment shall lie against such assessment.

(7) Subject to the provisions of this section every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officed in respect of any agricultural income derived from land situated within the area to which he is appointed.

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[1] *See* foot-note 3 on page 359, *ante*.

[2] *See* foot-note 2 on page 362, *ante*.

[3] *See* foot-note 1 on page 358, *ante*.

Indemn

62. Every person retaining or paying any tax in pursuance of this Act in respect of agricultural income belonging to another person is hereby indemnified for the retention or payment thereof

Statement case Appellate Tribuna High Co

63. (1) Within sixty days of the date upon which he is served with a notice of an order under sub section (5) of section 36 the assessee or the Commissioner may by application in the prescribed form, accompanied, when the application is made by the assessee, by a fee of fifty rupees, require the Appellate
question of law arising
Tribunal shall within
cation, draw up a statement of the case and refer it to the High Court

Provided that, if in the exercise of its powers under sub-section (2) the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application, and if he does so, the fee paid shall be refunded

(2) If on any application being made under sub section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within ninety days, from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly.

(3) If on any application being made under sub-section (1) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within sixty days from the date on which he is served with notice of the rejection apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1)

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf

Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, tax shall be payable in accordance with the assessment made in the case :

Provided that if the amount of assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow unless the High Court on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that the Commissioner intends to ask for leave to appeal to [1][the Supreme Court], makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to [1][the Supreme Court].

(8) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the Appellate Tribunal under sub-section (1) or to the High Court under sub-section (2) or sub-section (3). Act IX of 1908.

[R]eference to [b]e heard by a [Be]nch of the [H]igh Court, [an]d appeal to [li]e in certain [ca]ses to the [S]upreme [C]ourt.

64. (1) When any case has been referred to the High Court under section 63, it shall be heard by a Bench of not less than two judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908, shall so far as may be, apply notwithstanding anything contained in the Letters Patent of the High Court or in any other law for the time being in force. Act V of 1908.

(2) An appeal shall lie to [1][the Supreme Court] from any judgment of the High Court delivered on a reference made under section 63 in any case which the High Court certifies to be a fit one for appeal to [1][the Supreme Court].

(3) The provisions of the Code of Civil Procedure, 1908, relating to appeals to [1][the Supreme Court] shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 63 :

Provided further that the High Court may, on petition made for the execution of the order of [1][the Supreme Court] in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of [1][the Supreme Court] in the manner provided in sub-sections (5) and (7) of section 63in the case of a judgement of the High Court.

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[1]These words within square brackets were substituted for the words "His Majesty in Council" by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

(5) Nothing in this section shall be deemed—

(*a*) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to [1][the Supreme Court], or otherwise howsoever, or

(*b*) to interfere with any rules made by the [2][Supreme · ng in force, for the he Supreme Court], Judicial Committee

65. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the [3][Government] for anything in good faith done or intended to be done under this Act

Bar of suits in Civil Courts.

66. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 63 the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded

Computation of periods o limitation

[1] *See* foot-note 1 on page 396, *ante*

[2] These words within square brackets were substituted for the words "Judicial Com- tee of the Privy Council' by paragraph 3 of, and the Eleventh Schedule to, the Adap- ion of Laws Order, 1950

[3] *See* foot note 3 on page 358, *ante*

THE SCHEDULE

(*See* section 3)

Rates of Agricultural Income tax

A. (1) In the case of every individual, Hindu undivided family (other than a Hindu undivided family consisting of brothers only), or Ruler of [1][a Part B State]:

	Rate
(*a*) On the first Rs. 1,500 of the total agricultural income.	Nil.
(*b*) On the next Rs. 3,500 of the total agricultural income.	[2][Five naye paise] in the rupee.
(*c*) On the next Rs. 5,000 of the total agricultural income.	[2][Eight naye paise] in the rupee.
(*d*) On the next Rs. 5,000 of the total agricultural income.	[2][Twelve naye paise] in the rupee.
(*e*) On the next Rs. 5,000 of the total agricultural income.	[2][Nineteen naye paise] in the rupee.
(*f*) On the balance of the total agricultural income.	[2][Twenty-five naye paise] in the rupee.

(2) In the case of every Hindu undivided family which consists of brothers only :

	Rate
(*a*) If the share of a brother is Rs. [3][3,000] or less.	[2][Two naye paise] in the rupee.
(*b*) If the share of a brother exceeds Rs. [3][3,000].	The average rate applicable to the share of such brother if he were assessed as an individuali.

Provided that—

(*i*) no agricultural income-tax shall be payable on a total agricultural income which does not exceed Rs. [3][3,000].

(*ii*) in the case of an individual or Hindu undivided family whose only source of agricultural income is the land possessed by such individual or family and cultivated by such individual or the members of such family, as the case may be, with or without the aid of hired labourers, no agricultural income-tax shall be payable by such individual or family on the agricultural income derived from such land if the area of such land does not exceed [4][eighty] standard *bighas* ;

(*iii*) the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs. [3][3,000].

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[1]*See* foot-note 3 on page 359, *ante*.

[2]Substituted by West Bengal Act XXVIII of 1957.

[3]These figures within square brackets were substituted for the original figures "3,500", by s. 9(1)(*b*) and (*c*) (*i*), *ibid*.

[4]This word within square brackets was substituted for the words "One hundred" by s. 9(*c*) (*ii*), *ibid*.

Explanation —For the purposes of this Schedule—

i) [2]"brother" *includes the son and the son of a son of a brother and the widow of a* brother,

(ii) "share of a brother" means the portion of the total agricultural income of a Hindu undivided family which would have been allotted to a brother if a partition of the property of such family had been made on the last day of the previous year,

iii) "average rate" means the amount of agricultural income-tax payable by an individual on his total agricultural income divided by the amount of such total agricultural income

B. In the case of every company, firm or other [1][association of persons]

	Rate
ie whole of the total agricultural income . .	[2][Forty naye paise] in the rupee.

See foot note 2, on page 362, *ante*

Substituted by West Bengal Act XXVIII of 1957.

THE BENGAL AGRICULTURAL INCOME-TAX ACT, 1944

(As Amended by the West Bengal Agricultural Income-tax (Amendment) Act, 1949 (III of 1949) and modified by notification of the Government of India in the Ministry of States, No. S.R.O. 177 Dated 1st February, 1951 as extended to Tripura)

[ACT NO. IV OF 1944]

An act to provide for the imposition of a tax on agricultural income derived from land situated in Tripura.

WHEREAS it is necessary to make an addition to the revenues of Tripura and for that purpose to impose a tax on agricultural income derived from land situated in Tripura;

IT is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Bengal Agricultural Income-tax Act, 1944, as extended to Tripura.

(2) It extends to the whole of the State of Tripura.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in India or subject to a local rate assessed and collected by officers of the Government as such ;

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in item (*ii*) :

(*c*) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind of

any land with respect to which, or the produce of which, any operation mentioned in items (ii) and (iii) of sub clause (b) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in kind by reason of his connection with the land, requires as dwelling house, or as a store house or other out-building ,

(2) "Agricultural Income-tax Officer" means a person appointed to be an Agricultural Income-tax Officer under section 21 ,

(3) "assessee" means a person by whom agricultural income-tax is payable ,

(4) "Assistant Commissioner" means the person appointed as Assistant Commissioner of Agricultural Income-tax under section 21 ,

(5) "Commissioner" means the person appointed to be the Commissioner of Agricultural Income-tax Tripura under section 21 ,

of 1913. (6) "Company" means a company as defined in the Indian Companies Act, 1913 or formed in pursuance of an Act of Parliament or of Royal Charter or letters Patent or of an Act of the Legislature of a British possession or under a law of an Indian State, and includes any foreign association carrying on business in India or owning or possessing any interest in land in Tripura whether such association is incorporated or not, and whether its principal place of business is situated in India or not, which the Chief Commissioner may, by general or special order, declare to be a company for the purposes of this Act ,

of 1932. (7) "firm", "partner" and "partnership" have the same meanings respectively as in the Indian Partnership Act, 1932 provided that the expression "partner" includes any person who being a minor has been admitted to the benefits of partnership ,

(8) "Hindu undivided family" means a Hindu undivided family governed by *mitakshara* law,

(9) "person" includes a Hindu undivided family, a firm, a company and the Ruler of former Indian State ,

(10) "Prescribed" means prescribed by rules made under this Act ,

(11) "previous year" means—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have been so made up ;

(*b*) such period as may be determined by the Commissioner in the particular case of any person or class of persons ;

(*c*) in the case of income which is partially agricultural income from land and partially income chargeable under the Indian Income-tax Act, 1922 under the head "Business", and the business concerned has been newly set up in the financial year preceding the year for which the assessment is to be made, the period from the date of the setting up of such business to the 31st day of March next following, or to the last day of the period determined under sub-clause (b), or, if the accounts of the assessee are made up to some other date than the 31st day of March and the case is not one for which a period has been determined by the Commissioner under sub-clause (b), then at the option of the assessee, the period from the date of the setting up of such business to such other date : XI of 1922.

Provided that when such other date does not fall between the setting up of such business and the next following 31st day of March it shall be deemed that there is no previous year :

Provided further that where in this clause an option is exercisable by the assessee it shall not be exercisable more than once except with the consent of the Agricultural Income-tax Officer and upon such conditions as such officer may think fit :

Provided further that where in this clause an option is exercisable by the assessee and he has been assessed after he has exercised such option it shall not be exercisable by him again so as to vary the meaning of the expression "previous year" as the applicable except with the consent of the Agricultural Income-tax Officer :

Provided also that where the assessee is a partner in a firm, the expression "previous year" in respect of his share of the agricultural income of the firm means the previous year as determined for the assessment of the agricultural income of the firm ;

(12) "principal officer" used with reference to an Indian State, a company or any other association means—

(*a*) (*i*) the manager or agent in Tripura of the Ruler of the former Indian State, or

(*ii*) the secretary, treasurer, manager or agent of the company or association, or

(*b*) any individual connected with the Indian State, company or association upon whom an Agricultural Income tax Officer has served a notice of his intention of treating him as the principal officer thereof,

XLV of (13) "public servant" has the same meaning as in the Indian Penal Code,

(14) "received" used with reference to the receipt of the Agricultural income by a person shall include—

(1) receipt by an agent or servant on behalf of a principal or master respectively,

(2) receipts by other persons which are deemed to be his receipts under the provisions of this Act, and shall also include receipts of Agricultural income by way of adjustment of accounts with any other person,

(15) "Ruler of a former Indian State" means the Ruler of such State in his public and official capacity,

(16) "total agricultural income" means the total amount of agricultural income referred to in section 4 and computed in the manner laid down in this Act,

(17) "total world income" means the sum of—

of 1922 (*a*) the total world income as defined in the Indian Income-tax Act, 1922, and

(*b*) the total agricultural income as defined in this Act, and

(*c*) the agricultural income derived from land in India excepting Tripura, and

(18) "written down value" means in respect of any irrigation or protective work, or any machinery, plant or other capital asset,—

(*a*) in the case of assets acquired in the previous year, the actual cost to the assessee,

(*b*) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation allowable to him under this Act in respect of such work, machinery, plant or other asset, as the case may be

Chapter I

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of agricultural income-tax.

3. Agricultural income-tax shall be charged for each financial year beginning with the financial year ending on the 31st March, 1951 in accordance with and subject to the provisions of this Act, at the rate or rates specified in the Schedule in respect of the total agricultural income of the previous year of every individual, Hindu undivided family, company, firm or other association of persons and every Ruler of former Indian State:

Provided that where any property from which agricultural income is derived is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not, in respect of such property, be assessed as an association of persons, but the share of each such person in the agricultural income from the property shall be included in his total agricultural income:

Provided further that agricultural income-tax shall not be charged on the agricultural income of the Central Government or any State Government including Government of Tripura.

Total agricultural income.

4. Subject to the provisions of this Act, the total agricultural income of any previous year of any person comprises all agricultural income derived from land situated within the State of Tripura and received by him within or without that State, including any kind of cess payable in respect of such land to such person, but does not include—

(*a*) any agricultural income derived from land situated without Tripura.

(*b*) any agricultural income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes or in the case of Muslim trusts commonly known as Wakf-al-al-aulads, the income applied thereto.

Explanation.—In this section "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

Chapter II

COMPUTATION OF AGRICULTURAL INCOME-TAX AND ALLOWANCES

Heads of charge to agricultural income-tax.

5. Save as otherwise provided by this Act, the following heads of agricultural income shall be chargeable to agricultural income-tax, namely :—

(*i*) agricultural income as defined in sub-clause (a) of clause (1) of section 2 (hereinafter referred to as "agricultural income from rent or revenue")

(ii) agricultural income as defined in sub clause (b) of clause (1) of section 2 (hereinafter referred to as "agricultural income from agriculture"), in the manner hereinafter appearing

Computation of tax and allowances under the head agricultural income from rent or revenue

6. Agricultural income tax shall be payable by an assessee under the head "Agricultural income from rent or revenue" in respect of all rent and revenue, including any kind of cess referred to in section 4 derived from land referred to in sub clause (a) of clause (1) of section 2 included in his total agricultural income and received in the previous year, subject to the following allowances namely —

(1) any sums paid by him in the previous year on account of—

(i) land revenue or rent,

(ii) any kind of cess in respect of such land ,

(2) where his interest in such land is subject to a mortgage or other capital charge, the amount of any interest paid by him in the previous year in respect of such mortgage or charge, and where such land has been acquired, reclaimed or improved by him by the use of borrowed capital, the amount of any interest paid by him in the previous year in respect of such capital

(4) in respect of the maintenance of any irrigation or protective work or other capital asset the amount paid in the previous year on account thereof

Explanation —"Maintenance' includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood, or other natural causes ,

(5) depreciation at the prescribed rate in respect of any irrigation or protective work or other capital asset, constructed or acquired after the commencement of this Act for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land ,

(6) any sum paid by him in the previous year as premium in order to effect any insurance against loss of or damage to such land or any crops to be raised or cattle to be reared thereon ,

(7) in respect of the cost of collection of such rent or revenue including the cost of maintenance of any *katchari* or other capital assets and any expenses of litigation, a sum equal to fifteen *per centum* of the total amount of rent or revenue which accrued to him in the previous year in respect of the land from which such rent or revenue is derived

Provided that in the case of an assessee who can produce his accounts audited and certified to be correct by an accountant, and at the option of such assessee recorded in writing the allowance shall be, instead of such sum, the actual cost of collection incurred during the previous year as determined by the Agricultural Income-tax Officer on the basis of such accounts, subject to a maximum equal to twenty *per centum* of the total amount of rent or revenue which accrued to him in the previous year in respect of the land from which such rent or revenue is derived.

Explanation.—"Accountant" in this proviso has the same meaning as in clause (iii) of sub-section (2) of section 58.

Provided further that the assessee, having once exercised the option to claim the actual cost on the basis of his accounts as the allowance admissible as aforesaid, shall not be entitled in any future year to claim instead the alternative allowance admissible except with the previous sanction of the Assistant Commissioner;

(9) when rent derived from such land is rent-in-kind the cost incurred by the assessee—

(i) in performing any process contemplated in item (ii) of sub-clause (b) of clause (1) of section 2 for rendering the produce which comprises such rent-in-kind fit to be taken to market;

(ii) in transporting such produce to market;

(iii) in maintaining in good repair any agricultural implements or machinery and in providing for the upkeep of cattle for the purposes of such process or transport;

(10) any other expenditure of the assessee, not being in the nature of capital expenditure or personal expenditure laid out wholly and exclusively for the purpose of deriving such agricultural income from such land.

Computation of tax and allowances under the head agricultural income from agriculture.

7. Agricultural income-tax shall be payable by an assessee under the head "Agricultural income from agriculture" in respect of all agricultural income derived from land referred to in sub-clause (b) of clause (1) of section 2 included in his total agricultural income and received by him in the previous year subject to the following allowances, namely :—

(1) the cost incurred by the assessee in the previous year :—

(i) in cultivating such land or raising livestock thereon;

(ii) in performing any process contemplated in item (ii) of sub clause (b) of clause (1) of section 2 for rendering the produce of such land fit to be taken to market,

(iii) in transporting such produce or livestock to market, and

(iv) in maintaining agricultural implements and machinery in good repair and in providing for the upkeep of cattle for the purpose of such cultivation, process, or transport,

Provided that in the case of an agricultural income derived from land possessed by an individual or a Hindu undivided family and cultivated by such individual or by the members of such family with or without the aid of servants or hired labourers or of both, the allowance admissible under this clause shall, instead of such cost, be a sum equal to fifty *per centum* of the market value of the produce raised from such land,

(2) any sum paid by him in the previous year on account of—

(i) land revenue or rent,

(ii) any kind of cess, in respect of such land,

(3) where his interest in such land is subject to a mortgage or other capital charge, the amount of any interest paid by him in the previous year in respect of such mortgage or charge, and where such land has been acquired, reclaimed or improved by him by the use of borrowed capital, the amount of any interest paid by him in the previous year in respect of such capital,

(5) in respect of the maintenance of any irrigation or protective work or other capital assets the amount paid in the previous year on account thereof

Explanation —"Maintenance" includes current repairs and includes also in the case of protective dykes and embankments all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes,

(6) depreciation at the prescribed rate in respect of any irrigation or protective work or other capital asset constructed or acquired after the commencement of this Act for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land,

(7) any sum paid by him in the previous year as premium in order to effect any insurance against loss

of or damage to such land or any crops to be raised or cattle to be reared thereon ;

(8) in respect of any machinery or plant used exclusively for agricultural purposes which has been sold or discarded, the amount by which the written down value of the machinery or plant exceeds the amount for which the machinery or plant is actually sold or its scrap value :

Provided that such amount is actually written off in the books of the assessee ;

(9) any other expenditure of the assessee not being in the nature of capital expenditure or personal expenditure laid out wholly and exclusively for the purpose of deriving such agricultural income from such land ;

(10) any other sum which may be prescribed.

itation on mi- comes.

8. (1) In the case of income which is partially agricultural income assessable under this Act and partially income chargeable under the Indian Income-tax Act, 1922 under the head "Business", agricultural income-tax shall be payable by an assessee in respect of the market value determined in the manner prescribed of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilised as raw material in such business or the sale receipts of which are included in the accounts of the business, subject to any allowances which may be permissible under the provisions of this Act : XI of 1922.

Provided that,—

(*a*) Where for the purposes of the assessment of income-tax under the Indian Income-tax Act, 1922, the market value of the said produce has been determined the market value as so determined shall be taken to be the market value for the purposes of this sub-section;

(*b*) where there is a common charge on both agricultural income assessable under this Act and income chargeable under the Indian Income-tax Act, 1922, and such charge is an allowance permissible both under this Act and the Indian Income-tax Act, 1922, then, if for the purposes of the Indian Income-tax Act, 1922, the part of such charge which is to be deemed to be the allowance permissible under that Act has been determined under that Act, the remaining part of such charge shall be deemed to be the allowance to which agricultural income assessable under this Act is subject.

(2) Notwithstanding anything contained in this Act, in the case of tea [the plant *Camellia Thea* (Linn)] grown in Tripura and sold by the grower himself or his agent after manufacture, the agricultural income derived therefrom shall,

as long as for the purposes of assessment of income tax under the Indian Income tax Act, 1922, the income derived therefrom is computed under that Act in such manner as to include agricultural income, be deemed to be that portion of such income as so computed on which income tax is not payable under that Act, and agricultural income tax at the rates specified in the Schedule shall be payable on the whole of such agricultural income as so computed

Explanation —Where such income is derived from lands partially in and partially without Tripura agricultural income tax shall be levied under this Act on such portion of that income as is attributable to lands in Tripura according to the following principles, namely,—

(*i*) where the proportion of such income attributable to lands in Tripura has been determined for the purposes of the Indian Income tax Act, 1922, such apportionment shall be accepted as determining for the purposes of this sub section the proportion of such income attributable to lands in Tripura

(*ii*) where the proportion of such income attributable to lands in Tripura cannot be determined by the method specified in clause (*i*) of this Explanation such proportion shall be determined in such manner as may be prescribed

(3) for the purpose of the assessment of agricultural income tax under this section or any rule made thereunder a
under the Indian
of an order of any
ourt of the Judicial
of 1922 Commissioner or of Supreme Court altering or amending such order of assessment under the provisions of that Act shall be conclusive evidence of the contents of such order

Computation of allowances where estates extend beyond Tripura

9 Where an allowance admissible under sections 6, 7 or 8 is in respect of a common payment made for the purpose of deriving agricultural income from land part of which is within and part without Tripura such allowance shall be calculated as such proportion of the common payment as the agricultural income derived from the land within Tripura bears to the agricultural income derived from all the land both within and without Tripura in respect of which such common payment is made

Exemptions from assessment of tax.

10. Agricultural income tax shall not, subject to the provisions of section 17, be payable on that part of the total agricultural income of a person which is—

(*a*) [1][any agricultural income which he receives as his share of agricultural income of a firm or

association of persons, which has paid the tax in respect of the said agricultural income] ;

(*b*) any sum which he receives as a member of a Hindu undivided family the agricultural income of which has already been taxed ;

(*c*) any sum paid by such person—

(*i*) to effect an insurance on the life of such person or on the life of a wife or husband or minor child of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or minor child of such person ;

(*ii*) where the assessee is a Hindu undivided family, to effect an insurance on the life of any male member of such family or of the wife or a minor child of any such member :

Provided that the aggregate of any sums exempted from assessment to agricultural income-tax under this clause shall not exceed one-sixth of the total agricultural income of the assessee.

Prevention of double relief.

11. In computing the amount of any allowance or relief from assessment due under sections 6, 7, 8 or clause (*c*) of section 10 no part of such allowance or relief shall be included which constitutes a ground for relief from Indian Income-tax under the provisions of the Indian Income-tax Act, 1922. XI of 1922

Inclusions to prevent evasion of tax.

12. In computing the total agricultural income of any individual for the purpose of assessment there shall be included—

(*a*) so much of the total agricultural income of a wife or minor child of such individual as arises directly or indirectly—

(*i*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart,

(*ii*) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration ;

(*b*) so much of the total agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

CHAPTER III

LIABILITY TO ASSESSMENT IN SPECIAL CASES

Liability of guardian, trustee, agent, receiver or administrator

13. Where any person receives any agricultural income derived from land—

(*a*) as a guardian, trustee or agent of any person being a minor, lunatic or idiot or person residing without Tripura interested in such land or the agricultural income derived therefrom, or

(*b*) as a receiver or administrator appointed by or under the order of any Court in respect of such land or the agricultural income derived there from

any agricultural income-tax payable under this Act on such income shall be levied upon recoverable from such guardian, trustee, agent, receiver or administrator in like manner and to the same amount as would be leviable upon and recoverable from any such person if in direct receipt of such agricultural income and such guardian, trustee, agent, receiver or adminis-trator shall l ... i respect of the agricultural ... minor, lunatic, idiot person ... her person as the case may ... Act shall apply accordingly

Liability of court of wards administrator-general and official trustees, etc

14. In the case of agricultural income chargeable to agricultural income-tax under this Act derived from land which is received by the Court of Wards, an Administrator-General or an Official Trustee or any trustee or trustees appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise or a common manager the agricultural income-tax payable under this Act on such income shall be levied upon and recoverable from such Court of Wards Administrator-General, Official Trustee or such other trustee or trustees or such common manager in the like manner and to the same amount as it would be leviable upon or recoverable from any person on whose behalf such agricultural income is received and all the provisions of this Act shall apply accordingly

Rateable payment by guardian, trustee, etc.

15. Where the agricultural income received on behalf of any person by any trustee, agent, receiver, Court of Wards, Official T... or common manager referred to in sections 13 and ... of such person, t... Act shall be assessed on the ... person and the amount of tax as so assessed shall be levied upon and recoverable from such trustee, agent, receiver, Court of Wards, Official Trustee or common manager and such person rateably according to the portion of the total agricultural income of such person received by such trustee, agent, receiver, Court of Wards, Official Trustee or common manager, as the case may be, and the portion received by such person

Residuary provisions for computation and recovery of tax under sections 13 and 14.

16. (1) In any case falling under the provisions of sections 13 and 14 where any agricultural income or any part thereof is not specifically received on behalf of any one person, or where the individual shares of the persons on whose behalf such income is received are indeterminate or unknown, the tax shall be levied and recoverable at the rate applicable to the total amount of such income.

(2) Nothing contained in sections 13 and 14 shall prevent either the direct assessment of a person therein referred to on whose behalf agricultural income is received or the recovery from such person of the agricultural income-tax payable in respect of such income.

[1][Tax deemed to be paid on others' behalf by firms and associations.]

17. [1][A firm or other association of persons which has paid agricultural income-tax under this Act in respect of its agricultural income as such firm or association shall be deemed for the purposes of section 48 to have paid agricultural income-tax on behalf of the partners of such firm or the members of such association, as the case may be, on such part of the agricultural income of every individual partner or member as represents the portion of the agricultural income of such firm or association which is received by such partner or member.]

Liability of person deriving agricultural income jointly for himself and others.

18. (1) Save as provided for in sections 13, 14 and 17 if a person receives agricultural income derived from land and such income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of beneficiaries, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such income had been derived solely for his own benefit, and agricultural income-tax at such rate shall be leviable upon and recoverable from such person in respect of such income.

(2) Any person receiving agricultural income as referred to in sub-section (1) may, before paying to any beneficiary any share of such agricultural income to which such beneficiary is entitled, deduct from such share the amount of agricultural income-tax or its equivalent value in kind if such share is paid in kind rateably paid in respect of such share.

Explanation.—In this section "beneficiary" means a person entitled according to law to a portion of the agricultural income derived from such land.

Liability in case of discontinued firms or associations.

19. Where agricultural income is received by a firm or association of persons and the business of such firm or association is discontinued or such firm or association is dissolved every person who was a partner of such firm or member of such association at the time of such discontinuance or dissolution shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural

[1] Sub. by West Bengal Act XXVIII of 1957 as extended to Tripura.

income-tax payable under this Act by such firm or association and all the provisions of this Act shall, so far as may be, apply to such assessment

Agents to include persons treated as such.

20 Any person employed by or on behalf of a person residing without Tripura or through whom in the course of any business connection such person is in the receipt of any agricultural income upon whom the agricultural Income tax Officer has caused a notice to be served of his intention of treating such person as the agent of the non resident person, shall for the purpose of this Act be deemed to be such agent

Provided that no person shall be deemed to be the agent of a non resident person unless he has had an opportunity of being heard by the Agricultural Income tax Officer as to his liability

CHAPTER IV

INCOME TAX AUTHORITIES AND APPELLATE TRIBUNAL

Agricultural income tax authorities

21 (1) There shall be the following classes of agricultural income tax authorities for the purpose of this Act, namely —

(*a*) the Commissioner of Agricultural Income tax, Tripura to be appointed by the Central Government ,

(*b*) the Assistant Commissioner of Agricultural Income-tax, Tripura ,

(*c*) Tripura Agricultural Income tax Officers

(2) Except the Commissioner, the other authorities specified in sub section (1) shall be appointed by the Chief Commissioner, Tripura

(3) The Commissioner of Agricultural Income tax, Tripura shall in respect of the whole of Tripura exercise the powers conferred and perform the duties imposed on him by this Act and by such rules as may be prescribed

(4) The Assistant Commissioner of Agricultural Income-tax, Tripura shall exercise in respect of the whole of Tripura all the powers provided under section 34 and such powers of the Commissioner under this Act or the rules made thereunder, except the powers provided under section 37, as may be delegated to him by the Commissioner with the approval of the Chief Commissioner

(5) The Tripura Agricultural Income tax Officer shall, in respect of such areas as the Chief Commissioner may by
conferred and
Act and by such

Appellate tribunal

22 (1) The Central Government shall from time to time appoint, as and when may be necessary for the purpose of hearing appeals preferred under section 36, an Appellate Tribunal consisting of three members including a judicial

member who shall be a person who exercises the powers of a District Judge, or who possesses such qualifications as are required for appointment to the post of District Judge.

(2) The appointment of any member of the Tribunal shall be for such period as the Central Government may determine and the period so determined may be extended from time to time by the Central Government for such further period or periods as the Central Government may consider necessary.

(3) The judicial member shall be President of the Appellate Tribunal and during any period during which the appointment of a lawyer member or an accountant member is not made the President of the Appellate Tribunal shall for the purpose of the admission of appeals under section 36 be deemed to possess all the powers of the Appellate Tribunal.

(4) If the members of the Appellate Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.

(5) The procedure of the Appellate Tribunal in all matters relating to the discharge of its functions, including the place or places of its sittings, shall be as prescribed.

The Commissioner of Agricultural Income-tax and the Appellate Tribunal shall be under the administrative control of the Chief Commissioner, Tripura.

CHAPTER V

MACHINERY OF ASSESSMENT

23. [1][* * * * * *]

Return of agricultural Income.

24. (1) The Agricultural Income-tax Officer shall, on or before such date in each year as may be prescribed, give notice, by publication in such newspapers and in such other manner as may be prescribed requiring every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total agricultural income during that year :

Provided that the Agricultural Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons and shall in the

[1] Omitted by the West Bengal Act XXVIII of 1957 as extended to Tripura.

case of agricultural income assessable under section 8 allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment order
1922 under the Indian Income-tax Act, 1922.

(2) In the case of any person whose total agricultural income is, in the Agricultural Income-tax Officer's opinion of such an amount as to render such person liable to agricultural income-tax, the Agricultural Income-tax Officer may serve a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth along with such other particulars as may be provided for in the notice his total agricultural income during the previous year

Provided that the Agricultural Income-tax Officer may in his discretion extend the date for the delivery of the return and shall in the case of agricultural income assessable under section 8 allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment
1922 order under the Indian Income-tax Act, 1922

(3) If any person has not furnished a return within the time allowed by or under sub section (1) or sub-section (2), or having furnished a return under either of these sub-sections discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made

(4) The Agricultural Income-tax Officer may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub section (2) a notice requiring him, on a date to be therein specified, to produce or cause to be produced such accounts or documents as the Agricultural Income-tax Officer may require :

[illegible] on [illegible] in [illegible] ced on a date later than that specified in the notice :

Provided further that the Agricultural Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

[illegible] d Assessment.

[illegible] n 24 is correct and complete, he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return

[illegible] section 24 is correct and complete, he shall serve on such

person, a notice requiring him, on a date to be therein specified, either to attend at the Agricultural Income-tax Officer's office or to produce to cause to be there produced any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Agricultural Income-tax Officer may require on specified points, shall by an order in writing, assess the total agricultural income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) The powers conferred by sub-sections (2) and (3) shall not except with the permission of the Commissioner be exercised by the Agricultural Income-tax Officer in the case of agricultural income which is assessed under the provisions of sub-section (2) of section 8 and regarding which an assessee has submitted together with his return under section 24 a certified copy of an assessment order under the Indian Income-tax Act, 1922. XI of 1922

(5) If any person fails to make the return required by any notice given under sub-section (2) of section 24 and has not made a return or a revised return under sub-section (3) of the same section or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the term of a notice issued under sub-section (2) of this section, or fails to produce before the Agricultural Income-tax Officer any order under the Indian Income-tax Act, 1922, or a certified copy thereof which may be necessary under the provisions of this Act for the purpose of enabling any assessment to be made under section 8, such officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

Set off of loss in computing taxable agricultural income.

26. (1) Where in any year under either head of agricultural income specified in section 5 it is computed that the sum on which agriculture income-tax is payable by the assessee is a negative quantity the assessee shall be deemed to have sustained a loss under that head to that extent and such loss shall be set off against the sum computed under the other head of agricultural income as that on which agricultural income-tax is payable in the same year.

(2) Where the total sum computed under both heads of agricultural income as that or which agricultural income-tax is payable by an assessee in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1951, is a negative quantity, the assessee shall be deemed to have sustained a loss to that extent in that year and such loss shall be carried forward to the following year and set off against the sum on which agricultural income-tax is computed to be payable

in such year, and if such loss cannot be wholly set off in such year the amount of such loss not so set off shall be carried forward in the same manner to the next following year and so on, but no amount of such loss shall be carried forward for more than six successive years

Tax of deceased person payable by representative

27 (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the agricultural income tax assessed as payable by such person or any agricultural income-tax which would have been payable by him under this Act if he had not died

(2) Where a person dies before the application of the notice referred to in sub section (1) of section 24 or before he is served with a notice under sub section (2) of section 24 or section 38 as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub section (2) of section 24 or under section 38, as the case may be, comply therewith, and the Agricultural Income tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee

(3) Where a person dies without having furnished a return which he has been required to furnish under the provisions of section 24 or having furnished a return which the Agricultural Income tax Officer has reason to believe to be incorrect or incomplete, the Agricultural Income tax Officer may make an assessment of the total agricultural income of such person and determine the agricultural income-tax payable by him on the basis of such assessment, and for this purpose may by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representatives of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 8, 24 and 25 have required from the deceased person

Assessment in case of discontinued firm or association

28 (1) Where agricultural income is received by a company, firm or association of persons and the business through which such agricultural income is received by such company, firm or association is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the agricultural income so received in the previous year

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer notice of such discontinuance within thirty days thereof, and where any person fails to give the notice required by this sub-section, the Agricultural Income-tax Officer may direct that a sum

shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or association of persons up to the date of the discontinuance of its business.

Change in constitution of a firm or ownership of business.

29. (1) Where, at the time of making an assessment under section 25 it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted, at the time of making the assessment.

(2) Where a person carrying on any business in course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year :

Provided that, when the person succeeded cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.

Assessment after partition of a Hindu undivided family.

30. (1) Where, at the time of making an assessment under section 25, it is claimed by or on behalf of any member of a Hindu undivided family hitherto assessed as undivided that a partition has taken place among members or groups of members of such family, the Agricultural Income-tax Officer shall make due inquiry thereinto, and if a certified copy of a decree of a competent Civil Court for partition of the joint family property or a document purporting to show that there is separate possession and enjoyment of such property is produced, and in the case of a document other than a certified copy of a decree the Agricultural Income-tax Officer is satisfied that such document has been acted upon by the parties thereof, or if the Agricultural Income-tax Officer is otherwise satisfied that the Hindu undivided family has ceased to exist as such and the agricultural income is being enjoyed separately by the members or groups of the members of such family in definite shares, he shall record an order to that effect:

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, the Agricultural Income-tax Officer shall make an assessment of the total agricultural income received by or on behalf of the joint

family as such, as if no partition had taken place, and each member or group of members shall, in addition to any agricultural income-tax for which he or it may be separately liable and notwithstanding anything contained in clause (*b*) of section 10, be liable for a share of the agricultural income-tax on the agricultural income so assessed according to the portion of the joint family property allotted to him or it, and the agricultural Income-tax Officer shall make assessment accordingly on the various members and groups of members in accordance with the provisions of section 25

Provided that all the members and groups of members whose joint family property has been partitioned during previous year shall be liable jointly and severally for the agricultural income-tax assessed on the total agricultural income received by or on behalf of the joint family as such up to the date of partition

a Hindu undivided family

31 Where an assessee within one month from the service of a notice of demand issued as hereinafter provided satisfies the Agricultural Income-tax Officer that he was prevented by sufficient cause from making the return required by section 24 or that he did not receive the notice issued under sub section (4) of section 24, or sub section (2) of section 25, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last mentioned notices, the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 25 — Cancellation of assessment where cause i shown

32 (1) If the Agricultural Income tax Officer, the Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, is satisfied that any person— — [Pen]alty for concealment of income.

(*a*) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish by notice given under sub section (1) or sub section (2) of section 24 or section 38 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or

(*b*) has without reasonable cause failed to comply with a notice under sub section (4) of section 24 or sub section (2) of section 25, or

(*c*) has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty in the case referred to in clause (*a*), in addition to the amount of the agricultural income-tax payable by him a sum not exceeding that amount, and in the cases referred to in clauses (*b*) and (*c*), in addition to any agricultural income-tax payable by him, a sum not exceeding the amount of the agricultural income-tax which would have been avoided if the income as returned by such person had been accepted as the correct agricultural income :

Provided that—

(*a*) no penalty for failure to furnish the return of his total agricultural income shall be imposed on an assessee whose total agricultural income is less than five thousand rupees unless he has been served with a notice under sub-section (2) of section 24;

(*b*) where a person has failed to comply with a notice under sub-section (2) of section 24 or section 38 and proves that he has no income liable to agricultural income-tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees.

(2) No order shall be made against a person under sub-section (1) unless such person has been heard or has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(4) When the Appellate Tribunal, the Commissioner or the Assistant Commissioner makes an order under sub-section (1) he shall forthwith send a copy of the same to the Agricultural Income-tax Officer concerned.

Notice of demand.

33. When any agricultural income-tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this act.

34. (1) Any assessee objecting to the amount of agr cultural income assessed under section 25 or section 31 or the amount of loss computed under section 26 or the amount of agricultural income-tax determined under section 25 or section 31 or denying his liability to be assessed under this Act or objecting to a refusal of an Agricultural Income-tax Officer to make a fresh assessment under section 31 or objecting to any order under section 30 or section 32 made by an Agricultural Income-tax Officer or objecting to any order imposing any penalty by an Agricultural Income-tax Officer under sub-section (1) of section 45 or objecting to a refusal of an Agricultural Income-tax Officer to allow a claim to a refund under sections 47, 48 or 51 or the amount of the

refund allowed by the Agricultural Income-tax Officer under any of those sections, may appeal to the Assistant Commissioner against the assessment or against such refusal or oder

Provided that no appeal shall lie against an order under sub-section (1) of section 45 unless the agricultural income-tax has been paid

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to or of the intimation of the refusal to pass an order under sub-section (1) of section 30 or of the date of the refusal to make a fresh assessment under section 31 or of the intimation of an order under sections 47, 48 or 51, as the case may be; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner

Hearing of appeal

35 (1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing .

Provided that if the assessee or his agent is not present before the Assistant Commissioner when such day and place are fixed or such adjournment is made the Assistant Commissioner shall inform the assessee or his agent by notice sent by post of the day and place fixed or of any date to which the hearing of such appeal is adjourned as the case may be

(2) The Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Agricultural Income-tax Officer.

the hearing

the form of appeal was not wilful or unreasonable.

(4) In disposing of an appeal, the Assistant Commissioner may—

(a) in the case of an order of assessment—

(i) confirm, reduce, enhance or annul the assessment; or

(ii) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after making such further inquiry as the Agricultural Income-tax Officer thinks fit or the Assistant Commissioner may direct, and the Agricultural Income-tax Officer shall thereupon proceed to make such fresh assessment

and determine where necessary the amount of agricultural income-tax payable on the basis of such fresh assessment; or

(*b*) in the case of an order under section 47, section 48 or section 51 confirm, cancel or vary such order ; or

(*c*) in the case of an order under sub-section (1) of section 30, confirm such order or cancel it and either direct the Agricultural Income-tax Officer to make further inquiry and pass a fresh order to make an assessment in the manner laid down in sub-section (2) of section 30; or

(*d*) in the case of an order under section 32 or sub-section (1) of section 45, confirm or cancel such order or vary it so as either to enhance or reduce the penalty; or

(*e*) in the case of an appeal against a computation of loss under section 26 confirm or vary such computation :

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty or reduce a refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or such reduction.

(5) The Assistant Commissioner shall on the conclusion of the appeal communicate the orders passed by him to the assessee and to the Commissioner.

Procedure of appeal to the appellate tribunal.

36. (1) Any assessee objecting to an order passed by the Assistant Commissioner under section 32 or section 35 may appeal to the Appellate Tribunal within sixty days of the date on which such order is communicated to him.

(2) The Commissioner may, if he objects to an order passed by the Assistant Commissioner under section 35, direct the Agricultural Income-tax Officer to appeal to the Appellate Tribunal against such order and in such case the Agricultural Income-tax Officer shall make the appeal within sixty days from the date on which the order is communicated to the Commissioner by the Assistant Commissioner.

(3) The Appellate Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if he is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of twenty-five rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, and shall communicate such orders to the assessee and to the Commissioner.

(6) Save as provided in section 63 the orders passed by the Appellate Tribunal on appeal shall be final

(7) Where an appeal is made to the Appellate Tribunal under this section the costs shall be in the discretion of the said Tribunal

37. (1) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

Power of revision by Commissioner

Provided that the Commissioner shall not revise any order under this sub section if—

(a) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired, or

(b) the order is pending on an appeal before the Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal, or

(c) the order has been made more than one year previously

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order, call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

Provided that the Commissioner shall not revise any order under this sub-section if—

(a) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal the assessee has not waived his right of appeal, or

(b) where an appeal against the order has been made to the Assistant Commissioner, the appeal is pending before the Assistant Commissioner, or

(c) the order has been made the subject of an appeal to the Appellate Tribunal

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(3) Every application by an assessee under sub-section (2) shall be accompanied by a fee of twenty-five rupees.

[Inc]ome esca[pin]g assess[me]nt.

38. (1) If in consequence of definite information which has come into his possession the Agricultural Income-tax Officer discovers that agricultural income chargeable to agricultural income-tax has escaped assessment in any year, or has been under-assessed or has been assessed as too low a rate, or has been the subject of excessive relief under this Act, the Agricultural Income-tax Officer may, in any case in which the income is partially agricultural income assessable under this Act and partially income chargeable under the Indian Income-tax Act, 1922, under the head 'Business' or in which he has reason to believe that the assessee has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars thereof at any time within six years, and in any other case at any time within four years of the end of that year, serve on the person liable to pay agricultural income-tax on such agricultural income, or in the case of a company or the Ruler of an Indian State, on the principal officer of such company or State, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 24 and may proceed to assess or re-assess such agricultural income and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the agricultural income-tax shall be charged at the rate at which it would have been charged had the agricultural income not escaped assessment or full assessment, as the case may be.

(2) No order of assessment under section 25 or of assessment or re-assessment under sub-section (1) shall be made after the expiry, in any case in which section 8 or clause (*c*) of sub-section (1) of section 32 applies, of six years, and in other case, of four years from the end of the year in which the agricultural income was first assessable :

Provided that nothing contained in this sub-section shall apply to re-assessment made in pursuance of an order under section 35, section 36, section 63 or section 64.

[R]ectification [o]f mistake

39. (1) The Commissioner may at any time within four years from the date of any order passed by him in revision under section 37, the Appellate Tribunal or the Assistant Commissioner may, at any time within four years from the date of any order passed by it or him on appeal and the Agricultural Income-tax Officer may, at any time within four years from the date of any assessment order or refund order passed by him, on his own motion rectify any mistake apparent from the record of the revision, appeal, assessment or refund, as the case may be, and shall within the

like period rectify any such mistake which has been brought to his notice by an assessee

Provided that no such rectification shall be made, having the effect of enhancing an assessment or reducing a refund unless the Commissioner, the Appellate Tribunal, the Assistant Commissioner or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund the Agricul- [illegible] assessee a notice of [illegible] the sum payable, [illegible] to be issued under section 33 and the provisions of this Act shall apply accordingly

(4) Any assessee objecting to any such rectification which has the effect of enhancing the assessment or reducing a refund may, within thirty days of receipt of the notice of demand referred to in sub-section (3), appeal—

(a) in the case where the rectification is made by an Agricultural Income-tax Officer, to the Assistant Commissioner and the provisions of sub-section (3) of section 34 and section 35 shall apply to every such appeal as if it were an appeal against an order of assessment under section 25 or an order of refund under section 47 or section 48,

(b) in the case where the rectification is made by the Assistant Commissioner to the Appellate Tribunal and the provisions of sub-sections (4), (5), (6) and (7) of section 36 shall apply to every such appeal as if it were an appeal against an order passed by the Assistant Commissioner under section 35

Provided that the provisions of section 63 shall not apply to any order passed by the Appellate Tribunal on any such appeal.

40. [1][* * * *]

Power to take evidence on oath, etc.

41. The Agricultural Income-tax Officer, the Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this Chapter, and the Commissioner shall, for the purposes of section 37, have the same power as are [illegible]

when trying a suit in respect of the following matters, namely:— Act V of 1908.

(a) enforcing the attendance of any person and examining him on oath or affirmation ;

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses;

and any proceeding before an Agricultural Income-tax Officer, Assistant Commissioner or the Appellate Tribunal under this Chapter or before the Commissioner under section 37, shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code. Act XLV 1860.

Power to call for information.

42. The Agricultural Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

(1) require any firm or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses;

(2) require any person whom he has reason to believe to be a trustee guardian, common manager, or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, common manager, or agent, and of their addresses.

Power to inspect the register of members of any company.

43. The Agricultural Income-tax Officer or any person authorized by him in writing in this behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

CHAPTER VI

RECOVERY OF TAX AND PENALTIES

Tax when payable.

44. (1) Any amount specified as payable in a notice of demand under section 33, or an order under section 35, section 36 or section 37, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default :

Provided that where an assessee has presented an appeal under section 34, or under clause (a) of sub-section (4) of section 39, if such assessee makes an application to the Agricultural Income-tax Officer, supported by a certified copy of an order by the Assistant Commissioner or a certified copy of any entry in any register maintained by the Assistant Commissioner showing that such appeal has been presented for an extension of the period allowed for payment of the said

tax until the appeal is disposed of, the Agricultural Income-tax Officer shall, unless Assistant Commissioner for reasons to be recorded in writing directs otherwise, extend such period until the disposal of the said appeal

(2) If an assessee makes an application within the time mentioned in the notice of demand in section 33 for being allowed to pay the tax due by instalments, the Agricultural Income-tax Officer may in his discretion, by order in writing allow the assessee to pay the tax due instalments not exceeding four in number at such intervals as the said officer may fix in his discretion

Provided that if as a result of an application made by the assessee, Agricultural Income tax Officer allows the assessee to pay the tax due in instalments, the assessee shall be deemed to have waived all his rights of appeal under this Act

Provided further that if, on being allowed to pay the tax due by instalments the assessee defaults in the payment of any one instalment he shall be deemed to be a defaulter in respect of the total remaining amount of tax due

Mode and time of recovery

45. (1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears a sum not exceeding half that amount shall be recovered from the assessee by way of penalty

(2) For the purposes of sub-section (1), the Agricultural Income tax Officer may direct the recovery of any sum less than half the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed half the amount of the arrears payable

(3) The Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue

Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have the powers which under the V of Code of Civil Procedure, 1908, a Civil Court has for the purpose of the recovery of an amount due under a decree

(4) No proceeding for the recovery of any tax payable under this Act shall be commenced after the expiration of three years after,—

(a) the last date on which the tax is payable without ... deemed to be in default or

(*b*) the date on which the last instalment fixed under sub-section (2) of section 44 falls due, or

(*c*) the date on which any appeal relating to the payment of tax has been disposed of,

whichever is the later :

[1][Provided that in computing the said period of three years the time during which the recovery of arrears of agricultural income-tax has been stayed, either wholly or in part, by an injunction or any other order of a competent court shall be excluded].

Recovery of penalties.

46. Any sum imposed by way of penalty under this Act shall be recoverable in the manner provided in this chapter for the recovery of arrear of agricultural income-tax.

CHAPTER VII

REFUNDS

Refunds.

47. (1) If any individual, Hindu undivided family, company, Ruler of an Indian State, firm or other association of persons satisfies the Agricultural Income-tax Officer that the amount of agricultural income-tax paid by him or by it or on his or its behalf or treated as paid on his or its behalf for any year exceeds the amount with which he or it is properly chargeable under this Act for that year, he or it shall be entitled to a refund of any such excess.

(2) The Assistant Commissioner in the exercise of his appellate powers or the Commissioner in the exercise of his powers of revision if satisfied to the like effect shall cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person such other person only shall be entitled to a refund under this section in respect of such agricultural income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief.

Refunds of tax deemed to have been paid by firms and associations on behalf of others.

48. [1][(1) Notwithstanding anything contained in section 47, a partner of a firm or a member of an association of persons on whose behalf agricultural income-tax is by section 17 deemed to have been paid by such firm or association shall be entitled to a refund of agricultural income-tax on account of any difference between the

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[1] Added by West Bengal Act XXVIII of 1957 as extended to Tripura.

rate of agricultural income-tax applicable under this Act to the total agricultural income of such firm or association and the average rate which would be applicable to the total world income of such partner or member if such total world income were agricultural income chargeable to agricultural income-tax under this Act.

(2) Any partner of a firm or member of an association of persons who is deemed to be entitled under the provisions of sub-section (1) to a refund of agricultural income-tax in respect of the previous year may apply to the Agricultural Income-tax Officer in the prescribed manner for such refund, and if the Agricultural Income-tax Officer after such inquiry as he thinks necessary is satisfied that a refund under the provisions of sub section (1) is due, he shall compute the amount of such refund according to the provisions of sub section (3) and such amount shall be paid to the partner or member, as the case may be.

(3) The amount of any refund of agricultural income-tax due under the provisions of sub section (1) shall be the product of the amount of agricultural income on which tax is deemed to have been paid by a firm or association of persons and has been received by a partner or member, as the case may be, and the difference between the rate of agricultural income-tax applicable to the total agricultural income of the said firm or association chargeable to agricultural income-tax under this Act, and the average rate of such tax, applicable to an amount equivalent to the total world income of such partner or member in the previous year].

(4) "Average rate" in sub-section (3) means the rate obtained by dividing the amount of agricultural income tax which would be payable by assessee in the year of assessment if his total world income in the previous year were agricultural income chargeable to agricultural income tax at the rates applicable under this Act by the said total world income

(5) For the purpose of determining the total world income,—

I of 1922. (*a*) where the total world income of an assessee under the Indian Income-tax Act, 1922, has been computed for the purposes of that Act, that computation shall be accepted as determining the total world income under that Act for the purposes of this Act and if such a computation has not been made the total world income of an assessee under that Act shall be computed in the manner prescribed,

(*b*) the agricultural income derived from land outside Bengal shall be calculated in the manner prescribed

Explanation—A certified copy of an order computing the total world income under the Indian Income-tax Act, 1922, shall be conclusive evidence of the contents thereof.

[1]Subs by West Bengal Act XXVIII of 1957 as extended to Tripura.

ciprocal ef in res-ct of double ation with ner Go-rnments.

49. (1) The Chief Commissioner may, by notification in the Official Gazette, make provision for the granting of relief in respect of agricultural income on which both agricultural income-tax under this Act and other income-tax have been paid.

(2) For the purposes of this section "other income-tax" means any income-tax, super-tax or sur-tax charged under—

(*a*) any law of a State other than Tripura in force in that State, or

(*b*) any law in force in any Indian State, or in any part of His Majesty's Dominions, or in the United Kingdom,

where the laws of such State or part of His Majesty's Dominions, or of the United Kingdom, as the case may be, provide for relief in respect of tax charged on income both in such State or part of His Majesty's Dominions, or in the United Kingdom, as the case may be, and in Tripura which appears to the Chief Commissioner to correspond to the relief which may be granted under this section.

ower to set f amount of efunds gainst tax emaining ayable.

50. Where under any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income-tax Officer, Assistant Commissioner or the Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

ower of re-presentative f deceased erson or per-ons disabled o make claim on his behalf.

51. Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 47 or section 48 is unable to receive such refund or to make such claim, his executor, administer or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

Limitation of claims for refunds.

52. No claim to any refund of agricultural income-tax under this chapter shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received.

Chapter VIII

OFFENCES AND PENALTIES

Failure to make payments or deliver returns, or statements or allow inspections.

53. (1) If a person fails without reasonable cause or excuse—

(*a*) to furnish in due time any of the returns mentioned in section 24 or section 42;

(*b*) to produce or cause to be produced, on or before the last date allowed by the Agricultural Income-tax Officer under the first proviso to sub-section (4) of section 24 or the date mentioned in the notice under the said sub section, whichever is the later, such accounts, or documents as are referred to in the notice,

(*c*) to grant inspection or allow copies to be taken in accordance with the provisions of section 43,

he shall, on conviction of such offence before a Magistrate, be punishable with a fine which may extend to fifty rupees

(2) If a person after having been convicted of any offence referred to in sub-section (1) continues to commit such offence, he shall be punished for each day after the first during which he continues so to offend with fine which may extend to five rupees

False statement in declaration

54 If a person makes a statement in a verification mentioned in section 24 or sub section (3) of section 34 or sub section (4) of section 36 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees or with both

Prosecution to lie at the instance of commissioner

55. (1) A person shall not be proceeded against for an offence under section 53 or section 54 except at the instance of the Commissioner

(2) The Commissioner may, subject to such conditions as may be prescribed, either before or after the institution of proceedings compound any such offence

Disclosure of information by public servant

56. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment, proceeding or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential and notwithstanding anything contained in the Indian
1872 Evidence Act, 1872, no Court shall, save as provided in sub section (3), be entitled to require any servant of the Government to produce before it any such return, accounts, documents or record or any part of such record, or to give evidence before it in respect thereof

(2) If, save as provided in sub section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

(3) Nothing in this section shall apply to—

(*a*) the disclosure of any of the particulars referred to in sub-section (1) for the purposes of a prosecution under the Indian Penal Code in respect of any such statement, returns, accounts, documents, affidavit, deposition, record or evidence or for the purposes of carrying into effect the provisions of this Act; Act X *1860.*

(*b*) the disclosure to an officer of the Central Government of such facts as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it on income other than agricultural income;

(*c*) the production by a servant of the Government before a Court of any document, declaration or affidavit filed or the record of any statement or disposition made in a proceeding under section 30 or to the giving of evidence by a servant of the Government in respect thereof.

(4) No prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

CHAPTER IX

MISCELLANEOUS

Power to make rules.

57. (1) The Chief Commissioner may, subject to the condition of previous publication, make rules consistent with the provisions of this Act for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe in accordance with the provision of this Act the manner of ascertainment and determination of agricultural income;

(*b*) prescribe the procedure to be followed on application for refunds allowable under this Act;

(*c*) provide for any matter which by this Act is to be prescribed.

Appearance by authorised representative.

58. (1) An assessee who is entitled or required to attend before the Appellate Tribunal or any agricultural income-tax authority in connection with any proceeding under this Act otherwise than when required under section 41 to attend personally for examination on oath or affirmation may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or agricultural income-tax practitioner, and not being disqualified by or under sub-section (3).

(2) In this section—

(i) a person regularly employed by the assessee shall include any officer of a banking company with which the assessee maintains a current account or has other regular dealings,

Explanation.—"Banking company" means a banking
13 company as defined in section 277F of the Indian Companies Act 1913,

(ii) "lawyer" means a Barrister-at-law or Solicitor or any other person entitled to plead in any Court of law in India,

(iii) "accountant" means a registered accountant enrolled in the Register of Accountants, maintained by the Central Government under the Auditor's Certificate Rules, 1932, or holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an Association of Accountants recognised by the Central Board of Revenue,

(iv) "agricultural income-tax practitioner" means any person who has acquired such educational qualifications as may be prescribed and who has, subject to the payment of such fees as may be prescribed, been registered in the manner prescribed, as such a practitioner

(3) If any lawyer or registered accountant is found guilty of misconduct in connection with any agricultural income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1)

Provided that—

(a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Court of the Judicial Commissioner, and

(c) no such direction shall take effect until one month from the making thereof or when an appeal is preferred until the disposal of the appeal

Receipts to be given.

59. A receipt shall be given for any money paid or recovered under this Act 10

Service of notices.

60. (1) A notice or requisition under this Act may be served on the person therein named either by post, or as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908

(2) Any such notice or requisition may—

(a) in the case of a firm, or a Hindu undivided family, be addressed to any member of the firm or to the manager of the family; and

(b) in the case of the Ruler of a former Indian State, a company or any other association of persons be addressed to the principal officer thereof.

Place of assessment.

61. (1) Where an assessee is a company having a registered office in Tripura, it shall be assessed by the Agricultural Income-tax Officer of the area in which such registered office is situated.

(2) Where an assessee is a company not having a registered office in Tripura or is a firm or other association of persons, it shall be assessed by the Agricultural Income-tax Officer of the area where the principal accounts relating to its agricultural income are kept.

(3) In all other cases the assessee shall be assessed by the Agricultural Income-tax Officer of the area in which such assessee resides, and where the assessee resides outside Tripura, by the Agricultural Income-tax Officer of the area in which the agent or the principal officer of such assessee resides :

Provided that if the accounts relating to the agricultural income of an assessee are kept in any place in Tripura such assessee shall have the option of being assessed by the Agricultural Income-tax Officer of the area in which such place is situated.

Explanation.—In the case of a Hindu undivided family an assessee shall for the purpose of this sub-section be deemed to reside where the manager of the family resides.

(4) Where an option is exercisable by an assessee under the proviso to sub-section (3), he shall exercise such option within thirty days of the publication of the notice under sub-section (1) of section 24 or where a notice under sub-section (2) of that section is served, within thirty days from the service of such notice.

(5) Where any question arises under this section as to the place of assessment, such question shall be determined by the Assistant Commissioner after giving the assessee an opportunity of being heard.

(6) Where an assessment has once been made under this Act by an Agricultural Income-tax Officer, no objection relating to the place of Assessment shall lie against such assessment.

(7) Subject to the provisions of this section every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area to which he is appointed.

Indemnity

62. Every person retaining or paying any tax in pursuance of this Act in respect of agricultural income belonging to another person is hereby indemnified for the retention or payment thereof

Statement of case by Appellate Tribunal to Court of the Judicial Commissioner, Tripura.

63. (1) Within sixty days of the date upon which he is served with a notice of an order under sub-section (5) of
Commissioner may by
accompanied when the
e, by a fee of fifty rupees,
refer to the Court of the
ion of law arising out of
such order and the Appellate Tribunal shall within ninety days of the receipt of such application, draw up a statement of the case and refer it to the Court of the Judicial Commissioner, Tripura

Provided that, if in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application, and if he does so, the fee paid shall be refunded

(2) If on any application being made under sub-section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner as the case may be, may, within ninety

tion the Appellate Tribunal shall state the case and refer it accordingly

(3) If on any application being made under sub-section (1) the Appellate Tribunal rejects it on the ground that it is time barred, the assessee or the Commissioner, as the case may be, may within sixty days from the date on which he is served with notice of the rejection apply to the Court of the Judicial Commissioner, Tripura, and the Court of the Judicial Commissioner Tripura if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1)

(4) If the Court of the Judicial Commissioner, Tripura is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf

(5) The Court of the Judicial Commissioner, Tripura upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon

containing the grounds on which such decision is founded, and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(6) Where a reference is made to the Court of the Judicial Commissioner, Tripura the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the Court of the Judicial Commissioner, Tripura, tax shall be payable in accordance with the assessment made in the case :

Provided that if the amount of assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow unless the Court of the Judicial Commissioner on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that the Commissioner intends to ask for leave to appeal to Supreme Court makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to Supreme Court.

(8) Section 5 of the Indian Limitation Act, 1908 shall apply to an application to the Appellate Tribunal under sub-section (1) or to the Court of the Judicial Commissioner, Tripura under sub-section (2) or sub-section (3). IX of

Reference to be heard by a bench of the Court of the Judicial Commissioner, Tripura and appeal to lie in certain cases to Supreme Court.

64. (2) An appeal shall lie to Supreme Court from any judgment of the Court of the Judicial Commissioner delivered on a reference made under section 63 in any case which the Court of the Judicial Commissioner, certifies to be a fit one for appeal to Supreme Court.

(3) The provisions of the Code of Civil Procedure, 1908 relating to appeals to Supreme Court shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a Court of Judicial Commissioner, Tripura :

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 63 :

Provided further that the Court of the Judicial Commissioner may, on petition made for the execution of the order of Supreme Court in respect of any costs awarded thereby transmit the order for execution to any Court subordinate to the Court of the Judicial Commissioner.

(4) Where the Judgment of the Court of the Judicial Commissioner is varied or reversed in appeal under this section, effect shall be given to the order of Supreme Court in the manner provided in sub-sections (5) and (7) of section 63 in the case of a judgment of the Court of the Judicial Commissioner, Tripura.

Bar of suits in Civil Courts

65. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act

Computation of periods of limitation

66. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 63 the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded

THE SCHEDULE

(*See* section 3)

Rates of agricultural income-tax

A. (1) In the case of every individual, Hindu undivided family (other than a H undivided family consisting of brothers only), or Ruler of a former Indian State :

	Rate
(a) On the first Rs. 1,500 of the total agricultural income.	Nil.
(b) On the next Rs. 3,500 of the total agricultural income.	[1][Five naye Paise in the r
(c) On the next Rs. 5,000 of the total agricultural income.	[1][Eight naye Paise in rupee.]
(d) On the next Rs. 5,000 of the total Agricultural income.	[1][Twelve naye Paise in rupee.]
(e) On the next Rs. 5,000 of the total Agricultural income.	[1][Nineteen naye Paise i rupee.]
(f) On the balance of the total agriculturali ncome.	[1][Twenty-five naye Pai the rupee.]

(2) In the case of every Hindu undivided family which consists of brothers only

(a) If the share of a brother is Rs. 3,000 or less.	[1][Two naye Paise in the r
(b) If the share of a brother exceeds Rs. 3,000.	The average rate appl to the share of such b if he were assessed individual.

Provided that—

(i) no agricultural income-tax shall be payable on a total agricultural income does not exceed Rs. 3,000 ;

(ii) in the case of an individual or Hindu undivided family whose only sou agricultural income is the land possessed by such individual or family and cultivat such individual or the members of such family, as the case may be, with or without t of hired labourers, no agricultural income-tax shall be payable by such individual or f on the agricultural income derived from such land if the area of such land does not e eighty *bighas* ;

(iii) the agricultural income-tax payable shall in no case exceed half the amou which the total agricultural income exceeds Rs. 3,000.

Explanation.—For the purposes of this Schedule—

(*i*) "brother" includes the son and the son of a son of a brother and the wid a brother ;

[1]Subs. by West Bengal Act XXVIII of 1957 as extended to Tripura.

(ii)

(iii) "average rate" means the amount of agricultural income tax payable by an individual on his total agricultural income divided by the amount of such total agricultural income.

B. In the case of every company, firm or other association of persons.

	Rate
the whole of the total agricultural income . .	[1][Forty naye Paise in the rupee.]

[1]Subs. by West Bengal Act XXVIII of 1957 as extended to Tripura.

HYDERABAD IRRIGATION (BETTERMENT CONTRIBUTION AND INCLUSION FEES) ACT, 1952*

[ACT NO. V. OF 1952]

An Act to provide for the levy of betterment contributions or inclusion fees on certain lands in the State of Hyderabad

Preamble. WHEREAS it is expedient to provide for the levy of betterment contributions or inclusion fees on certain lands in the State of Hyderabad;

IT is hereby enacted as follows:

Short title, extent and commencement. 1. (1) This act may be called the Hyderabad Irrigation (Betterment Contribution and Inclusion Fees) Act, 1952.

(2) It extends to the whole of the State of Hyderabad.

(3) It shall come into force on such date in such local area in the State of Hyderabad as the Government may by notification in the Jarida appoint in this behalf and different dates may be appointed for different local areas.

Definition. 2. In this Act unless there is anything repugnant in the subject or context—

(1) 'Collector' means the Collector of the district or such other officer as Government may appoint to discharge the functions of the Collector under this Act;

(2) 'Contribution' means the betterment contribution referred to in Section 3;

(3) 'Drainage work' includes—

(*a*) channels, either natural or artificial for the discharge of waste or surplus water and all works connected with or auxiliary to such channels,

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(This Act also applies to Marathwada region of Bombay State.)

*This Act has been repealed by the Andhra Irrigation (Levy of Betterment Contr tion) Andhra Pradesh Extension and Amendment Act, 1959. However the repealing provides that "......

"(2) Notwithstanding the repeal of the said Act by this Act, the provisions of the said as they stood before the commencement of this Act shall continue to apply to the levy, de mination and payment of betterment contribution in respect of lands under any work, construction, expansion or alteration of which was completed after the 15th August, but before the commencement of this Act, or on which the cost incurred before the commer ment of this Act is not less than two-thirds of the total cost of such construction, expan or alteration, as if the said Act had continued in force and this Act had not been passed.

(3) Save as provided in sub-section (2) the provisions of section 8 of the Ma General Clauses Act, 1891 (Madras Act I of 1891), shall apply on the repeal of the said by this Act."

(*b*) escape channels from an irrigation work,

(*c*) dams, weirs, embankments and sluices, and

(*d*) all works for the protection of lands from flood or from erosion,

which are owned or controlled by the Government or which are maintained by them otherwise than by an assignment of land or land revenue made, confirmed or recognised by the G[illegible] [illegible] [illegible] made over to any person, but does not include works for the removal of sewage ,

(4) 'irrigation work' includes—

(*a*) all canals, channels, tanks, wells, reservoirs, ponds and reservoirs used for the supply or storage of water and all works, embankments and structures (other than escape channels) connected therewith or auxiliary thereto,

which are owned or controlled by the Government, or which are maintained by them otherwise than by an assignment of land or land revenue made, confirmed, or recognised by the Government or which having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid have not been made over to any person ,

(4)(*a*) 'land' includes inam land

(*b*) all such lakes and other natural collection of water or parts thereof as are owned or controlled by Government,

(*c*) all lands used for the purpose of the works referred to in sub clauses (a) and (b) and all buildings, machinery, fences, gates and other erections occupied by or belonging to the Government on such lands,

(5) 'owner' in relation to any land includes any person having an interest in such land In the case of Inam land, the inamdar of such land shall be deemed to be the owner thereof for the purposes of this Act,

(6) 'prescribed' means prescribed by rules made under this Act

3. The Government shall be entitled to levy a betterment contribution, in accordance with the provisions of this Act from the owner of any land which, in their opinion is benefited, or is capable of being benefited, by the completion of the construction, expansion or alteration by the Government whether after the commencement of this Act, or at any time before such commencement but not earlier than the 15th August, 1947, of any work (including the installation by them of a pumping set) which is capable of benefiting an irrigable — Recovery of betterment contributions.

area of more than 200 acres. Provided that no contribution shall be levied until the expiry of the period of Revenue concession which will not be less than 3 years from the date of the completion of the construction, expansion or alteration of the work.

Determination of contribution by Collector.

4. Subject to such rules as may be prescribed, the Collector shall determine the contribution payable in respect of each of the lands mentioned in Section 3, after taking into account the increase in its capital value as estimated in the prescribed manner :

Provided that the contribution shall in no case exceed one half of such increase.

Procedure of Collector.

5. Before determining the contributions payable under Sec. 4, the Collector shall invite objections and suggestions, in such manner as may be prescribed from the persons liable to pay the same and consider in the prescribed manner all objections and suggestions received from them.

When contribution becomes payable.

6. Every owner shall become liable to pay the contribution determined under Section 4 in respect of his land as soon as he is served with a written notice of demand therefor issued by the Collector.

Mode of payment of contribution.

*6-A. (1) The owner of any land in respect of which any contribution is payable shall pay it in the manner prescribed either by surrendering to the Government a portion of his land, the value whereof is equal to the amount of the contributions or in cash or partly by surrendering land and partly in cash ;

Provided that—

(*i*) if the total area of the land in the ownership of such person does not exceed a basic holding as, determined under the Hyderabad Tenancy and Agricultural Lands Act, 1950 for the local area concerned, the contribution shall be payable in cash only; XXI o

(*ii*) in the case of inam land the contribution shall be payable in cash only;

(*iii*) where the contribution is paid by surrendering land, a rebate shall be allowed to the owner of such land at such rate as may be prescribed ;

(2) Where the owner of any land chooses to pay the contribution by surrendering land, the surrender shall be subject to the following conditions :

(*a*) The value of the land offered for surrender shall, for the purposes of payment of the contribution, be determined by the Collector in the prescribed manner;

*Insertion of a new Section 6-A.

(*b*) The owner of the land shall prove to the satisfaction of the Collector that such land is free from all encumbrances; the Collector shall notify the proposed surrender and invite objections [illegible]

[illegible] that the land is not free from encumbrance, he shall refuse to accept the surrender and shall recover the contribution in cash, if no objection is received and the Collector is satisfied that the land is free from encumbrance he shall accept the surrender and after such acceptance the land shall vest in the Government free from all encumbrances and the Government may dispose it of in such manner as they deem fit,

(*c*) The Collector may, in his discretion, refuse to accept the surrender in any case and demand payment of the contribution in cash

(3) The Government may by general or special order direct that in any case or class of cases the contribution shall be payable only in cash and not by surrendering land

(4) Where the contribution is payable in cash, it shall be payable in such number of annual instalments not exceeding 20, as may be fixed by the Government or by any authority or officer authorised by them in this behalf

Provided that if on or before the date on which the first instalment is payable or at any subsequent date the owner pays in a lump-sum, the entire contribution, he shall be entitled to a rebate of 10% in the prescribed manner

7. Any owner aggrieved by any order passed by the Collector under this Act may, within the prescribed time, appeal to the Board of Revenue, and the Board may pass such orders on the appeal as it thinks fit — Appeals

8. The Government may, at any time, either *suo motu* or on application, call for and examine the record of any proceedings taken under this Act by any officer or authority including the Collector and the Board of Revenue for the purpose of satisfying themselves as to the legality, regularity or propriety of such proceeding, and may pass such orders in reference thereto as they think fit — Revision

Provided that no order affecting the rights of the concerned parties shall be modified or annulled without such parties being given an opportunity to be heard by the Revenue Minister

9. Any order passed by the Government in revision under Section 8 [illegible] ed by the Board of [illegible] ler Section 7, and [illegible] Government and the Board, the order of the Collector shall be final and it shall not be liable to be questioned in any court of Law. — Finality of orders passed under the Act

[1][* * * *]

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[1] Sec. 10 omitted by Act XXXI of 1956

Deduction from contribution.

11. A person liable to pay any contribution in respect of the construction, improvement or extension of any irrigation or drainage work shall be entitled to deduct from the amount thereof any amount previously paid by him to the Government as a voluntary contribution for the same purpose.

Contribution recoverable as arrear of land revenue.

12. If the amount of the contribution or of any instalment thereof, or of any interest thereon payable under this Act, is not paid within the prescribed time, it shall be recoverable as if it were an arrear of land revenue.

Recovery of inclusion fee.

13. (1) The Govt. shall be entitled to recover an inclusion fee from the owner of any dry land included either in the wet ayacut or in the irrigated dry ayacut served by any such irrigation or drainage work as is mentioned in Section 3.

(2) The provisions of this Act in regard to the determination, payment and recovery of the betterment contribution shall, so far as may be, and subject to such modifications, if any, as may be prescribed, apply to the determination, payment and recovery of inclusion fee under this section.

Contribution & inclusion fee not to be levied for the same land.

14. Nothing contained in this Act shall be deemed to authorise the levy of both contribution and inclusion fee for the same land.

Power to exempt.

15. The Government may, by general or special order and subject to such conditions, if any, as may be prescribed, exempt any land or class of land from the levy of contribution or inclusion fee under this Act.

Power to make rules.

16. The Government may by notification published in the Jarida, make rules to carry out the purposes of this Act and in particular make rules for anything which under this Act may be prescribed.

Saving.

17. Nothing contained in this Act shall apply to the determination, payment or recovery of the betterment contribution or the inclusion fee from the owners of lands which are benefited or are served, by an irrigation or drainage work, if provision in that behalf is contained in any other law for the time being in force and relating to such work.

THE ANDHRA IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) ACT, 1955

[ACT No XXV OF 1955]

An Act to provide for the levy of betterment contribution on certain lands in the State of [1][Andhra Pradesh]

WHEREAS it is expedient to provide for the levy of betterment contribution on certain lands in the State of [1][Andhra Pradesh]

BE it enacted in the Sixth Year of the Republic of India as follows —

Short title and extent.

1. (1) This Act may be called the Andhra Irrigation (Levy of Betterment Contribution) Act, 1955

(2) It extends to the whole of the State of [1][Andhra Pradesh]

Definitions

2 In this Act, unless there is anything repugnant in the subject or context,—

[2]["(1) 'Andhra area' means the territories which immediately before the 1st November, 1956 were comprised in the State of Andhra"]

(1 a) "Contribution" means the betterment Contribution referred to in section 3.

(2) 'Government" means the State Government,

(3) "Notification" means a notification published in the Andhra Gazette, and the word notified" shall be construed accordingly,

(4) "Owner" in relation to any land, means the person liable to pay the public revenue due on the land, and includes a ryot having a permanent right of occupancy within the meaning of the Madras Estates Land Act, 1908

Madras Act I of 1908

"person liable to pay any land in respect of means the person who ...lic revenue had it been

(5) "Prescribed" means prescribed by rules made under this Act,

[(5-a) "Telangana area" means the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956]

Central Act 37 of 1956

[1]Substituted by Andhra Pradesh Act No XXXVII of 1959

[2]Inserted b... *ibid*

(6) "Work" means an irrigation work or drainage work as defined hereunder—

(*a*) "Irrigation work" included—

(*i*) All canals, channels, tanks, wells, reservoirs, ponds, spring ponds and madugus used for the supply or storage of water for purposes of irrigation, and all dams, embankments, weirs, sluices, groynes and other works (other than escape channels) connected therewith or auxiliary thereto, which are owned or controlled by the Government, or constructed or maintained by them and not handed over to any person ;

(*ii*) all such lakes and other natural collections of water, or parts thereof as are situated on lands which are the property of Government ;

(*iii*) all rivers and natural streams or parts thereof ;

(*b*) "drainage work" includes the following works which are owned or controlled by the Government, or constructed or maintained by them and not handed over to any person :—

(*i*) Channels, whether natural or artificial, for the discharge of waste or surplus water, and escape channels from an irrigation work, together with dams, embankments, weirs, sluices, groynes and other works connected with or auxiliary to all such channels ;

(*ii*) all works for the protection of lands from flood or from erosion.

Explanation.—For the purposes of this clause, any part or stage of a work which is notified under sub-section (2) of section 3 shall be deemed to be a work.

Levy of betterment contribution.

3. [1][(1) The Government shall be entitled to levy a betterment contribution in accordance with the provisions of this Act from the owner of any land which, in their opinion, is benefited or is capable of being benefited, by the completion of the construction, expansion or alteration by the Government of any work, including the installation by them of a pumping set, the cost of which exceeds one lakh of rupees, if the construction, expansion or alteration of such work is completed—

(*a*) in the Andhra area, whether after the commencement of this Act, or at any time before such commencement but not earlier than the 15th August, 1947;

(*b*) in the Telangana area, after the commencement of the Andhra Irrigation (Levy of Betterment Contribution) Andhra Pradesh Extension and Amendment Act, 1959 :

Provided that nothing contained in this Act shall apply to any such work in the Telangana area, if not less than two thirds of the total cost of the construction, expansion or

[1]Substituted by Andhra Pradesh Act No. XXXVII of 1959.

alteration thereof was incurred before the commencement of the Act aforesaid :

Provided further that no contribution shall be levied until the expiry of three years from the date of completion of the construction, expansion or alteration of any work]

Explanation I—A land shall be deemed to be "capable of being benefited" notwithstanding that the benefit is not enjoyed provided that such non-enjoyment is due solely to any action or inaction on the part of the person or persons interested in such land

Explanation II—A land shall not be deemed to be benefited merely by reasons of the maintenance of an existing work wholly or partly at the expense of the Government

(2) The Government shall notify the dates of commencement and completion respectively of the construction, expansion or alteration by them of any work either for the entire work or for any part or stage thereof, and all lands benefited or capable of being benefited by the completion of such work, part or stage as so notified shall be liable to pay betterment contribution

Amount of contribution.

4. (1) The amount of contribution payable by an owner in respect of any land under a work shall be so fixed as not to exceed one half of the increase on value on account of the completion of the contribution, expansion or alteration of the work

(2) For the purposes of this section, the increase in value on account of the completion of the construction, expansion or alteration of any work shall be the amount by which the value of the land on the completion date exceeds the value of the land on the contribution date

Explanation—"Construction date" and "Completion date" mean the dates of commencement and completion respectively of any work or part or stage thereof as notified under sub-section (2) of section 3.

Publication of notice.

5. (1) Before levying the contribution payable in respect of any land, a notice shall be published by the District Collector in the District Gaze
published in any District, the
and in such other manner as may
fying the lands under the
and liable for the paymen
all persons interested to sub
writing to the Inquiring Officer prescribed in this behalf or to appear before him either personally or by agent and state their objections within forty-five days of the publication of the notice

(2) Separate notices to the same effect shall also be served in the prescribed manner on all persons known or

[1]Inserted by Andhra Pradesh Act No XXXVII of 1959

believed to be the owners of, or interested in, the lands specified in the notice, so far as such service may be practicable.

Inquiry and order by District Collector.

6. On the date fixed under section 5 or on such other date to which the inquiry may be adjourned, the Inquiring Officer shall inquire into the objections received or recorded by him and submit the records of inquiry to the District Collector together with his recommendations. The District Collector shall thereupon pass an order specifying—

(*a*) the lands concerned under the irrigable command of the work,

(*b*) the increase in value of such lands by the completion of the construction, expansion or alteration of the work,

(*c*) the amount of the contribution leviable on each of the said lands, and

(*d*) the fasli year from which the contribucion shall be leviable.

Appeal.

7. Any person aggrieved by an order passed by the District Collector [1][under this Act] may, within sixty days from the date of receipt of such order by him, appeal to the Board of Revenue, [2][and the Board may pass such order on the appeal as it thinks fit].

Revision.

8. The Government may, at any time, either *suomotu* or on application, call for and examine the records relating to any order passed, or proceeding taken by the Inquiring Officer or the District Collector [1][under this Act], or by the Board of Revenue under section 7, for the purpose of satisfying themselves as to the legality or propriety of such order, or as to the regularity of such proceeding, and pass such order in reference thereto as they think fit :

[2]["Provided that the Government shall not pass any order prejudicial to any person unless such person has had a reasonable opportunity of making a representation".]

Finality of orders.

9. Any order passed by the Government in revision under section 8 and subject to such order, the decision of the Board of Revenue on appeal under section 7, and subject to the order of the Government and the decision of the Board of Revenue on appeal, the order passed by the District Collector [1][under this Act], shall be final.

When contribution becomes payable.

10. Contribution shall become payable under this Act on a written notice of demand therefor issued by an officer authorized by the Government in this behalf being served on the owner in accordane with the order passed under section 6, section 7 or section 8 specifying the amount payable.

Mode of payment of contribution.

11. (1) The contribution payable by an owner shall be paid by him [1][in twenty annual instalments] :

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1. Substituted by Andhra Pradesh Act No. XXXVII of 1959.

2. Inserted by *ibid.*

Provided as follows —

(i) if, on or before the date on which the first instalment is payable, the owner pays in a lump sum the entire contribution, he shall be entitled to a rebate of ten per cent calculated on such contribution ,

(ii) if, on any date within a period of two years after the first instalment is payable he pays in a lump sum the entire amount of contribution outstanding against him on that date, he shall be entitled to a rebate of ten per cent calculated on such outstanding amount

Explanation.—In the case mentioned in proviso (ii) if the owner had not paid the amount of instalment or instalments payable by him before the date mentioned in that proviso the amount of such instalment or instalments shall be deducted from the lump sum paid by him and the rebate shall be calculated only on the balance

(2) Where the betterment contribution is paid in instalments, interest shall be calculated on the contribution amount outstanding at the end of each year at such rate as may be prescribed, and the contribution with interest as so calculated shall be payable in equated annual instalments

(3) [1][Subject to such rules as may be made in this behalf the owner of any land] in respect of which any contribution is payable, may instead of making a lump sum payment in cash, surrender to the Government any land the value whereof is, in the opinion of the District Collector, equal to the amount of the contribution less a rebate as provided in sub section (1)

Provided that the District Collector may, for reasons to be recorded in writing refuse to accept any land offered by the owner

Rebate in certain other cases

12. If the Government accept or have accepted any money contribution from any person for the construction, expansion or alteration of any work and such person becomes liable to pay contribution in respect of any land benefited or capable of being benefit d by such contribution, expansion or alteration, the sum accepted from him shall be credited towards the contribution payable by him

Contribution recoverable as arrear of land revenue

t of the ned l be hole or portion of an instalment of the contribution payable in any year is not paid on the due date the amount of the instalment or its unpaid portion and the interest due thereon shall be deemed to be an arrear of land revenue and the provisions of the Madras Revenue Recovery Act, 1864

Act 864

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[1] Substituted by Andhra Pradesh Act No. XXXVII of 1959

shall apply to the recovery of the said arrear as they apply to the recovery of the revenue due on the land.

ayment of ontribution y person aving interest in land.

14. Any person having interest in a land may, notwithstanding that he is not the owner of such land, pay the contribution payable by the owner in respect of such land and shall if such person pays the entire contribution in accordance with the provisions of section 11, be entitled to the rebate provided by that section.

Payment of contribution by actual occupants and ryots with occupancy right.

15. Where an owner who has paid an instalment of contribution under this Act is not the occupier of the land, he shall, in the absence of a contract to the contrary, be entitled to recover the amount of such instalment from the person, other than a tenant, who is in actual occupation of the land during the year in which the said instalment is payable :

Provided that, where the owner has paid the entire contribution with a rebate under the proviso to sub-section (1) of section 11 at twentieth part of the sum actually paid shall be deemed to be the instalment of the contribution payable during evey year during which an instalment of the contribution would have been payable had the entire contribution not been so paid.

Exemption.

16. If, in the opinion of the Government, the enforcement of all or any of the provisions of this Act will cause hardship in any case or cases, the Government may, by notification, setting out the ground therefor, exempt either permanently or for a specified period, such case or cases from all or any of the provisions of this Act, subject to such conditions, if any, as the Government may deem fit to impose.

Bar of jurisdiction of Civil Courts.

17. No Civil Court shall entertain any suit or other proceedings to set aside or modify any order or decision passed by the District Collector, the Board of Revenue or the Government under this Act or in respect of any other matter falling within the scope of any of those authorities.

Power to make rules.

18. (1) The Government may, by notification, make rules to carry out the purposes of this Act and in particular—

(*a*) for the delegation of their powers to the Board of Revenue, District Collector or other authorities ;

(*b*) for the provision of such appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated ;

(*c*) for the procedure to be followed in making inquiries under section 6 and in disposing of appeals under section 7 ;

(*d*) for the manner of service of notices and orders issued under this Act ;

(*e*) for the manner in which instalments of contribution shall be paid ;

(*f*) for all matters expressly required or allowed by this Act to be prescribed.

(2) All rules made under this section shall be published in the Andhra Gazette and upon such publication shall have effect as if enacted in this Act The rules so made shall be placed on the table of the Legislative Assembly as soon as possible after they are published and shall be subject to such modifications, whether by way of repeal or amendment, as the Assembly may make within fourteen days thereafter during the session in which they are so laid

Power to remove difficulties

[1]["**18-A.** If any difficulty arises in giving effect to the provisions of this Act and in particular in their application to the Telangana area, the Government may, by order in the Andhra Pradesh Gazette, make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the difficulty"]

Saving

19. Nothing contained in this Act shall apply to the levy, determination, payment or recovery of betterment contribution from the owners of lands which are benefited, or are capable of being benefited by the construction, expansion or alteration of any work, if provision in that behalf is contained in any other law relating thereto and for the time being in force.

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[1] Inserted by Andhra Pradesh Act No XXXVII of 1959

THE ASSAM EMBANKMENT AND DRAINAGE ACT, 1953

[ASSAM ACT NO. I OF 1954]

An Act to provide for better provision for the construction, removal and upkeep of embankments and for the drainage and improvement of lands in Assam.

Preamble.

WHEREAS it is expedient to replace the existing Act by a new law with better provisions for the construction, maintenance, management, removal and control of embankment and for the drainage and improvement of lands in Assam. Assam VII o

IT is hereby enacted as follows :

Short title, extent and commencement.

1. (1) This Act may be called the Assam Embankment and Drainage Act, 1953.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the State Government may specify by notification in the Official Gazette in that behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"Cattle".

(*i*) "Cattle" include also elephants, buffaloes, horses, ponies, mules, asses, pigs, sheep and goats.

"Cost".

(*ii*) "Cost" means the capital cost of a work including that of the connected survey but does not include any maintenance or interest charges.

"Court".

(*iii*) "Court" means a principal Civil Court of original jurisdiction.

"Deputy Commissioner".

(*iv*) "Deputy Commissioner" means the Deputy Commissioner of the district in which any embankment or drain is situated or proposed and includes the Additional Deputy Commissioner of the said district or any other officer empowered by the State Government to discharge the functions of a Deputy Commissioner under this Act.

"Drain".

(*v*) "Drain" includes dongs and irrigation channels in the plains, a tunnel, a culvert, a ditch, a channel, a canal, a syphon, a sluice or artificial water course of any other description and any other device for excluding, regulating or retaining water, rain water, flood water or sub-soil water.

"Embankment".

(*vi*) (*a*) "Embankment" means any embankment, public or private, constructed for the purpose of excluding, regulating or retaining water and includes all earthen or masonry-walls, dams, spillways, piers, groins, sluices, syphons, water-gauges, bench-marks and other works connected with any such embankment and land appurtenant thereto; but does

not include any "ali" or ridge surrounding or dividing a field or any public or private road

(*b*) "Private Embankment" means any embankment which is not a public embankment — Private Embankment

(*c*) "Public Embankment" means an embankment vested in the State Government or under the control and administration of the State Government or any Local Board, Municipal Board or Town Committee — Public Embankment

(*vii*) "Embankment Officer" means the Executive Engineer of any Division and any other officer not below the rank of Executive Engineer whom the State Government may declare to be such. — Embankment Officer

(*viii*) (*a*) "Occupier" means the person residing in or in possession of any house, land or place — Occupier

(*b*) "Owner" shall include proprietors and settlement holders as defined in the Assam Land and Revenue Regulation, 1886 and every intermediate tenant between the proprietor or settlement holder and the occupier and with respect to unsettled waste land, shall mean State Government — Owner

Regulation I of 1886

(*ix*) "Prescribed" means prescribed by rules made under this Act — Prescribed

[illegible] Government that [illegible] be necessary [illegible] all be published in the Official Gazette, and the Deputy Commissioner shall cause public notice of the substance of such notification to be given at convenient places in the said locality on a date not less than 2 months in advance of taking up the execution of works — Right of entry upon private land and payment for damage.

(*ii*) Upon publication of the notification under sub-section (*i*) it shall be lawful for any officer generally or specially authorised by the State Government in this behalf and for his servants and workmen to enter upon, survey and take levels of any land, whether covered with water or not, to dig or bore into the sub soil to make and set up suitable land marks, level marks and water gauges and do all acts necessary for investigation or survey of a scheme, or collection of information and data under this Act

(*iii*) When for the purpose of such inquiry it appears to the officer authorised under sub section (*ii*) that it is indispensable to cut down and clear away any part of any standing crop, fence, trees or jungle, he or any other person acting under his orders may do so provided that as far as possible cutting of crops should be avoided

(*iv*) Every proprietor and settlement holder of any land and every person entitled to receive rent in respect of any land or occupying any land as a tenant shall on the written requisition of the Embankment Officer furnish direct such information or assistance as may be required by the Officer for

the purpose of collecting necessary data for any proposal under the Act :

Provided that if the aforesaid Officer or person acting under his orders proposes to enter into any enclosed court or garden attached to a dwelling house, he shall previously give the occupier of such court or garden at least 2 days' notice in writing of his intention to do so.

(*v*) The Officer so authorised shall pay or tender payment for all damages done as aforesaid within one month of such entry and in case of any dispute as to the sufficiency of the amount so paid or tendered or as to the right to receive such compensation, the matter shall be referred to the Deputy Commissioner for decision on an application being made by the person entitled to receive compensation within 6 months of the date on which the payment is tendered or made. Thereupon the Deputy Commissioner shall make a decision which shall be based on an enquiry held either by himself or by a Gazetted Officer not below the rank of an Extra Assistant Commissioner authorised by him in this behalf.

(*vi*) A person aggrieved by the decision of the Deputy Commissioner may within one month of the decision apply to the Deputy Commissioner for referring the matter to the Court.

Construction, removal or alteration of embankments or removal of obstruction.

4. (*i*) The Embankment Officer shall have power to initiate a scheme for

(*a*) removing or altering any embankment or drain or any obstruction of any kind which in his opinion endangers the safety of any town or inhabited area, or is likely to cause damage to crop and extensive loss of property by interfering with the general drainage or the flood drainage of any tract of land ; and

(*b*) constructing any embankment or drain, which in his opinion will improve the land and cultivation of an area or the absence of which in his opinion endangers the safety of any inhabited area or cause flooding or failure of crops ;

(*ii*) For the purpose of initiating a scheme as above, the Embankment Officer shall make preliminary investigation and reconnaisance surveys as he finds necessary to come to a conclusion regarding the feasibility and soundness of the scheme before he submits the same to the State Government with his recommendations. He will also obtain the opinion of the District Heads of the Departments of Revenue, Agriculture and Public Health to the proposals, who shall furnish their opinion to the Embankment Officer when sought by him.

Application for a drain or a new embankment or a sluice in a public embankment

5. (i) (a) If any person or body of persons desires that a bridge, culvert, syphon, sluice or any other device be made in any public embankment for the purpose of drainage or irrigation, or

(b) if within any local area to which section 16 (ii) has been applied, any person or body of persons desires that any new embankment or drain be constructed or that any existing embankment or drain be altered or removed,

Such person or body of persons shall make an application in writing to the Deputy Commissioner of the District in which such embankment or drain is situated or proposed

Fees on application

(ii) At the time of making such application an applicant unless he is applying on behalf of a body of persons or the general public, shall deposit the sum of Rs 50 towards the expenses of survey, etc, necessary to investigate the soundness of the proposal Provided that if during the enquiry it appears that the proposal is likely to benefit an individual only and the aforesaid sum of Rs 50 has not already been paid, the Deputy Commissioner or the Embankment Officer may call upon such individual to deposit the said sum within a specified time and on his failure to do so, no action shall be taken on his application

Procedure for enquiry

6. (i) When an application has been made to the Deputy Commissioner under section 5, he shall forward the application to the Embankment Officer and if the Embankment Officer after necessary enquiry considers the petition as *bona fide* and the proposals put forward therein as sound, beneficial and feasible from technical point of view he shall forward the proposals to the State Government with his recommendations sending a copy to the Deputy Commissioner for information

(ii) The State Government may, in certain cases, receive such application direct from the public and forward such application to the Embankment Officer calling for report on the feasibility, soundness or otherwise of the proposal from technical point of view subject to his being satisfied after enquiry that the application is *bona fide* and the proposal embodied therein is likely to be beneficial

Preparation of Schemes for improvement of drains embankments and flood protection

7. Whenever from any action taken under sections 4, 5 and 6 it appears to the State Government that any embankment or drainage work is necessary for the improvement of any lands or for the proper cultivation or irrigation thereof or for protection from floods, other accumulation of water or from erosion by a river or for the improvement of the health of any tract, the State Government may cause a detailed survey for the Scheme to be made and a scheme for such embankment or drainage work to be drawn up by the Embankment Officer and published together with an estimate of its cost and a statement of such cost as the State Government propose to recover by imposition of betterment cess or water rate and the period during which such imposition will be in force Provided that before taking

any action under this section the State Government shall consult the Railway or any Local Body which is directly affected by any such scheme.

Calling for objections.

8. As soon as possible after the publication of a scheme under section 7, a Deputy Commissioner or where the Scheme affects persons in more than one District, the Commissioner of Divisions shall invite objections to the Scheme if any, by a proclamation, allowing one month's time, from the public and any Railway Administration, Local Board, Municipality or Town Committee likely to be directly affected. On receipt of any objections the Deputy Commissioner or the Commissioner, as the case may be, shall publish a notice stating the place, date and time at which an enquiry will be held for the purpose of ascertaining the validity or otherwise of the objections. After such enquiry has been completed, the Deputy Commissioner or the Commissioner, as the case may be, shall forward the objections alongwith his recommendations to the State Government.

The Deputy Commissioner or the Commissioner, as the case may be, at the time of hearing the objections, shall obtain the advice of the Embankment Officer on technical points.

Completion of scheme.

9. After taking into consideration any objections and recommendations made under section 8, the State Government may direct that the Scheme drawn up under section 7 with such consequential modifications as Government deem necessary, be put into operation and completed forthwith or within such period as may be fixed.

Disposal of claims to compensation.

10. (*i*) Whenever any :—

(*a*) obstruction is removed or embankment or drain removed, constructed or altered under section 4 (*i*) (*a*) and (*b*) ; or

(*b*) embankment or drainage work carried out under section 9 ; or

(*c*) emergent work undertaken under section 16(*v*) and in direct consequence thereof there has occurred stoppage or diminution of supply of water in any existing drain or accumulation or diminution of water in any place, resulting in deterioration in the productivity of any land or any other loss or damage arising from any of the causes referred to in clauses (*a*), (*b*) and (*c*) which is capable of being estimated ; or

(*d*) right of fishery, right of drainage, right of use of water or other right of property, other than those as mentioned above has been injuriously affected; any person feeling aggrieved by any of the causes referred to in clauses (*a*), (*b*), (*c*) and (*d*) may claim compensation before the Deputy Commisioner within two years from the date of physical completion of the work as notified by the State Government and

the Deputy Commissioner shall award such compensation as he considers fair and reasonable after enquiry in the prescribed manner.

In determining the amount of such compensation regard shall be had to the diminution of the market value at the time of occurrence of loss or damage of the property in respect of which compensation is claimed, and where such market value is not ascertainable the amount of compensation may be reckoned by taking into account the extent of diminution of estimated annual net profit of such property

(ii) An appeal against the decision of the Deputy Commissioner shall lie to the Court but no appeal shall be entertained unless it is made within 90 days of the date of the Deputy Commissioner's decision

(iii) No claim for compensation shall be entertained after the expiry of two years from the date of the completion as notified unless the Deputy Commissioner is satisfied that the claimant had sufficient cause for not making the claim within such period

Provided that no compensation shall be awarded for any damage caused by —

(*a*) deterioration of climate or soil ;

(*b*) stoppage of irrigation or of the means of drifting timber or watering cattle ,

(*c*) displacement of labour ;

(*d*) stoppage or diminution or increase of percolation or floods

11. For all works carried out under section 9 the State Government may, unless they decide otherwise in specific cases, levy *Levy of rate, cess and premium.*
ment cess
by the wor [illegible]
and an annual water rate or betterment cess so as to realise the initial cost of the Scheme in full or in part and that of its maintenance in the manner as Government may prescribe.

(i) Six per cent per annum on the first cost of the said works adding thereto the estimated yearly cost of maintenance and supervision of the same

(ii) Such rate may be varied from time to time within such maximum by the State Government.

(iii) Any rate chargeable under the Act shall be termed either "Water rate" or "Betterment Cess" as the case may be and shall be recoverable in the same manner as land revenue :

Provided that if the State Government be satisfied that due to any unforeseen circumstances or natural causes any area or part thereof falling under a Scheme ceases to receive

any benefit in full or part from such Scheme the State Government may by a notification in the Official Gazette abate or reduce the betterment cess or water rate for so much of the area as may be determined.

Levy of rate or cess on works existing from before.

12. It shall be lawful for the State Government to levy a similar Water Rate or Betterment Cess on land improved by Embankment and Drainage Schemes executed by the Government before the commencement of this Act and take action under section 13 for such lands as if this Act has been in force from before.

Preparation of Schedule of lands.

13. As soon as possible after a Scheme comes into operation under this Act the State Government shall get a Schedule of lands chargeable under the Scheme as required under section 11 prepared by the Deputy Commissioner.

The Deputy Commissioner shall in consultation with the Embankment Officer cause to be prepared from cadastral or other maps of the district a map showing the boundaries of land that has been improved under the Scheme and a Schedule of estates shown therein together with rates proposed to be charged per bigha according to the degree of benefit derived.

The Deputy Commissioner shall publish the Schedule mentioned above, in such places as may be deemed necessary and then invite objections, if any, by a proclamation allowing one month's time. On receipt of any objection the Deputy Commissioner shall publish a notice stating the place, date and time at which the enquiry will be held for the purpose of ascertaining the validity of the objections. Any person aggrieved by the decision of the Deputy Commissioner may appeal to the Commissioner within one month from such decision. After the period of limitation and in case there is an appeal, after the decision of the Commissioner, the Deputy Commissioner shall forward the Schedule with any consequential modifications made therein to the State Government for approval.

After such approval of the rates and schedule of the lands with or without any modifications, found necessary by the State Government, the rates will become payable from such date as may be specified.

Vesting of certain right in the State.

14. The right of access to and maintenance of any embankment or drain or portion thereof, constructed, improved or repaired under any provision of this Act, shall vest in and be under the control and administration of the State Government.

Penalties for trespass on embankments or drains.

15. (*i*) Any person who without the permission of the Embankment Officer—

(*a*) grazes any cattle or allows any cattle belonging to him or in his charge to trespass on any public embankment or drain or

(*b*) cuts or uproots or otherwise damages any trees, shrubs or grass growing on any public embankment or drain or

(*c*) takes any vehicle over or across any public embankment or drain or

(*d*) damages or obstructs any embankment or drain constructed, repaired or maintained under the provisions of this Act or

(*e*) constructs, removes or alters any embankment or drain in such manner as will adversely affect the area served by the scheme under this Act

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both

(*ii*) No person shall, without due authority, cut through any embankment or drain or destroy or attempt to destroy, any such embankment or drain or open or shut or obstruct any sluice in any such embankment or drain or any public water course, and every person who commits any breach of the provisions of this sub section shall be liable to imprisonment of either description which may extend to a term of three years and to a fine which may extend to one thousand rupees

Penalties for constructing, maintaining, etc an embankmen or drain

16. (*i*) Whenever it appears to the State Government that in any area any public or private embankment, drain or other works ancillary thereto require to be protected, maintained or improved or that extension, construction removal, repairs or alteration of any such works should be regulated in public interest, the Government may, by notification in the official gazette, apply the provision of this section to such area

(*ii*) Any person who, without the permission of the Deputy Commissioner or the Embankment Officer constructs, removes, alters or damages any embankment or drain, within the limits of any local area to which this section has been applied shall be punished with imprisonment of either description which may extend to a term of three years and to a fine which may extend to one thousand rupees

(*iii*) The Deputy Commissioner or the Embankment Officer may by notice require any person, who constructs or alters any embankment or drain in contravention of the provisions of sub-section (*ii*) above to remove the same within a reasonable time to be specified in the notice

Notice for removal of embankment or drain and penalties for neglect of such removal.

(*iv*) If any embankment or drain the removal of which has been required by notice under sub-section (*iii*) is not removed within the time specified in the notice, the Deputy Commissioner or the Embankment Officer may cause the same to be removed

(*v*) In case of grave and imminent danger to life or property the Embankment Officer or Deputy Commissioner may forthwith get unauthorised embankment or drain or any obstruction to an embankment or drain removed and notify the persons concerned thereafter

(*vi*) The cost of the removal of any embankment or drain removed under the provision of sub-section (*iv*) shall be recoverable as an arrear of land revenue either from the person who constructed or altered the embankment or drain or who caused it to be constructed or altered or jointly and severally from both such persons as the Deputy Commissioner may determine.

17. In case of any accident happening or being apprehended to any embankment or drain, any Embankment Officer or any person acting under his general or special orders in this behalf may enter upon any land adjacent to such embankment or drain and may execute all works which may be necessary for the purpose of repairing damages or preventing such accident.

In every such case the Embankment Officer or person acting under his general or special orders shall tender compensation to the owner or occupier of the said land for all damages done thereto. If such tender is not accepted the Embankment Officer shall refer the matter to the Deputy Commissioner who shall proceed to award compensation for the damages done in accordance with the provisions of sub-section (*v*) of section 3 of this Act.

Prior consultation with the Public Works and Public Health Departments.

18. (*i*) In deciding on all questions involving technical matters under the provisions of this Act, the Deputy Commissiner shall first consult the Public Works Department.

(*ii*) Before any capital work is undertaken the Public Health Department shall be consulted.

Certain persons deemed to be public servants.

19. Every person authorised to function under any provision of this Act shall be deemed to be a "public servant" within the meaning of the Indian Penal Code. Act XLV of 1860.

Power to make rules.

20. The State Government may subject to the condition of previous publication make rules generally to carry out the provisions of this Act and in particular to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(*b*) the manner in which any order or public notice issued under the provisions of this Act shall be published ;

(*c*) the manner in which assessment and recovery of costs under this Act shall be made.

Indian Railways Act, 1890 (Act IX of 1890) not affected.

21. Nothing in this Act shall affect the provisions of the Indian Railways Act, 1890. Act IX 1890.

Repeal.

22. The Assam Embankment and Drainage Act, 1941 is hereby repealed. Assam A VII of 1941.

THE ASSAM BETTERMENT FEE AND MOORING TAX (DIBRUGARH) ACT, 1953

[ASSAM ACT XIII OF 1953]

An Act for the levy of betterment fee and mooring tax in Dibrugarh Subdivision

Preamble

WHEREAS it is necessary to levy a betterment fee and mooring tax in Dibrugarh Subdivision,

IT is hereby enacted as follows —

Short title, extent and commencement

1. (1) This Act may be called the Assam Betterment Fee and Mooring Tax (Dibrugarh) Act, 1953

(2) It shalll extend to the Dibrugarh Sub division of the Lakhimpur District

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette appoint

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Collector" means the Deputy Commissioner, the Additional Deputy Commissioner, Lakhimpur District or such other officer empowered by the State Government to carry out the functions of the said Deputy Commissioner,

(b) "Fee" means the betterment fee,

(c) "prescribed" means prescribed by rules framed under this Act,

(d) "property" means only immovable property,

[1][(e) 'Flood protection work' means any spur, revetment, embankment, drain and other works connected with protection of the Dibrugarh Town and its neighbourhood from erosion and flooding by the river Brahmaputra]

Levy of betterment fee

3. The State Government shall levy a betterment fee in so much areas of the Dibrugarh Subdivision as may be specified under section 4 The betterment fee shall be levied and collected in the manner hereinafter provided in this Act

Division into different belts.

4. For the purpose of ascertaining the fee that should be levied at different rates consistent with the proximity of

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Gazette. These four belts shall be graded as A, B, C and D, belt—A being nearest to the [1][flood protection work] and the other belts following it in their alphabetical order.

[2]["*Explanation.*—All areas within any of the belts shall be deemed to be benefited irrespective of the nature and quantum of the actual benefits accruing to any particular plot of land".]

Rate of annual fees.

5. (1) For a period not exceeding twenty years from the commencement of this Act, every person owning property within any of the belts aforesaid, shall in respect of his property be liable to pay the fee which shall be levied annually at the rates specified in the Schedule.

(2) The valuation of any property in areas within any of the belts shall be determined by the Collector.

(3) The Collector shall publish annually a list of the persons liable to pay the fee in the different belts in such manner as may be prescribed and subject to appeal to the State Government in the prescribed manner, such assessment shall be final and conclusively binding on the owners of property so listed.

mptions.

6. The following buildings and lands shall be exempt from the levy of any fee :—

(*a*) buildings and lands set apart for public worship either actually so used or used for no other purpose ;

(*b*) burials and burial grounds.

Fee as charge on the property.

7. The fee levied on any property shall be the first charge on it after land revenue, if any.

Instalment.

8. The fee shall be payable by instalment one or more and in such manner as may be prescribed.

Occurrence of change to any property.

9. If after the levy of the fee and publication of the list mentioned in section 5(3) any change to any property affecting its valuation occurs whether by demolition, construction or reconstruction of any building or otherwise, the owner thereof shall give notice of such change to the Collector within the prescribed time and the Collector shall revise fee which will become payable accordingly from the next financial year.

Fee in case of transfer.

10. (1) In the case of any transfer of any property either in part or in whole, both the transferor and the transferee shall be liable for arrears if any accrued upto the date of transfer.

(2) In the event of any transfer of property in part, the liability for payment of the fee shall be apportioned by the Collector in accordance with the share of each of the different owners.

[1]These words were substituted for the word "revetment" by Assam Act XII of 1957.
[2]Inserted by Assam Act XII of 1957.

Collector's power to call for particulars

11 (1) For the purpose of ascertaining the valuation of any property, the Collector may by notice, in the prescribed manner, call upon any owner or owners of property to furnish him with such particulars about any property as he may require and every owner shall on such notice be bound to comply with it and make a full return to the best of his knowledge or belief

(2) For the purpose aforesaid, the Collector or his authorised agent may enter, inspect, survey and measure any building or land after giving the owner thereof twenty four hours' notice in writing

Mooring tax.

12. Any owner of a steamer or flat, by himself or acting through his agent, mooring at any place on the river within 400 yds of the [1][flood protection work] opposite the same, shall be liable to pay a mooring tax at such rate as specified in the Schedule

Arrangements for collections

13 The State Government may make such arrangements as it thinks fit for the collection of fees and taxes payable under this Act

Arrears realisable as arrears of land revenue

ation *1886*

14. All arrears of fees and taxes shall be realisable as arrears of land revenue and the procedure laid down in the Assam Land and Revenue Regulation, 1886 shall be followed for the purpose of such realisation

Power to make rules.

15. (1) The State Government may make rules for carrying out the purposes of the Act

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for—

(i) the manner of publishing the list of persons liable to pay fee ,

(ii) the manner of filing any appeal against assessment,

(iii) the number of instalment or instalments and the time and the manner in which the fee shall be paid ,

(iv) the manner of collection of fee ,

(v) the time within which any notice about any change in any property shall be given ,

(vi) the manner of giving any notice about transfer of any property ,

(vii) the manner of giving any notice calling for particulars about any property ,

(viii) the manner of fixing the rate of mooring tax and its collection

[1]These words were substituted for the word "revetment" by Assam Act XII of 1957.

SCHEDULE

[Section 5(1)]

Belt A .	Not exceeding 5 per cent of the value of the property [1][. . . . .]
Belt B . .	Not exceeding 4 per cent of the value of the property [1][. . . . .]
Belt C . .	Not exceeding 3 per cent of the value of the property [1][. . . . .]
Belt D . .	Not exceeding 2 per cent of the value of the property [1][. . . . . . .]

(Section 12)

Daily Re. 1 for 100 tons or part of it of the capacity of the steamer or the flat.

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[1]The words "realisable in annual instalments over the period as fixed under sub-sec (1) of section 5" were deleted by Assam Act XXXIII of 1954.

THE BIHAR IRRIGATION AND FLOOD PROTECTION (BETTERMENT CONTRIBUTION) ACT, 1959

[BIHAR ACT NO XXVIII OF 1959]

An Act to provide for the levy of Betterment Contribution on certain lands in the State of Bihar.

BE it enacted by the Legislature of the State of Bihar in the Tenth Year of the Republic of India as follows —

Short title, extent and commencement

1 (1) This Act may be called the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959

(2) It extends to the whole of the State of Bihar

(3) It shall come into force on such date or dates and in such area or areas as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) 'betterment contribution' means the contribution leviable and realisable under section 3 of this Act,

(*b*) 'Collector' means the Collector or the Deputy Commissioner of a district and includes such other officer not below the rank of a Deputy Collector as the State Government may appoint to perform all or any of the functions of the Collector under this Act,

(*c*) 'flood protection work' includes embankments, groynes, spurs, dams, barrages, sluices and all other works, for the protection of lands or buildings from floods or erosion, constructed improved or maintained by the State Government,

(*d*) 'irrigation work' means any work of irrigation or any system of such work, natural or artificial, constructed, improved or maintained by the State Government and includes,—

(i) all canals, channels, tanks, reservoirs, ponds, spring ponds, lakes and other natural collection of water, or parts thereof, all embankments barrages, weirs, dams guide banks, and all other works which are constructed, improved or maintained by the State Government for the purposes of irrigation, and

(ii) [illegible]

[illegible] with on such lands,

(*e*) 'land' includes interest in lands benefits arising out of lands and things attached to the earth or permanently fastened to anything attached to the earth;

(*f*) 'owner' in relation to any land includes any person having an interest in such land; and

(*g*) 'prescribed' means prescribed by rules made under this Act.

ower of ate Government to y betterment contribution.

3. Subject to the provision of section 4 the State Government shall be entitled to levy and recover a betterment contribution in accordance with the provisions of this Act from the owner of any land which in its opinion is benefited by any irrigation work or flood protection work or part of such work whether completed after the commencement of this Act or at any time before such commencement but not earlier than the 15th day of August 1951:

Provided that—

(*a*) in respect of the land of a privileged person as defined in clause (*i*) of section 2 of the Bihar Privileged Persons Homestead Tenancy Act, 1947 no betterment contribution shall be levied;

Bihar Act IV of 1948.

(*b*) in respect of an irrigation work or part of such work—

(*i*) no betterment contribution shall be leviable except after four years of the completion of the irrigation work or part of such work as the case may be; and

(*ii*) no betterment contribution shall be levied if the cost of such work not being a reservoir or storage dam is less than rupees ten lakhs; and

(*c*) in respect of flood protection work no betterment contribution shall except in respect of lands situated in an urban area, be levied if the cost of such work is less than rupees five lakhs.

Explanation 1.—A land shall be deemed to be benefited from an irrigation work if it is capable of being benefited from such work notwithstanding that the benefit is not enjoyed due to any action or inaction on the part of the owner of such land.

Explanation 2.—For the purposes of this Act the date of completion of an irrigation work or flood protection work or part of such work shall be the date which may be notified in this behalf by the State Government in the Official Gazette.

Explanation 3.—In this section and in section 4 'urban area' means lands comprised within the local limits of a municipality or a Notified Area Committee established under the Bihar and Orissa Municipal

B. O Act of 1922

Act, 1922 or within the local limits of the Patna Municipal Corporation

Specification of lands benefited and rates of betterment contribution

4. Whenever the State Government proposes to levy a betterment contribution under section 3, it shall, by notification in the Official Gazette, specify the lands which are benefited from an irrigation work or flood protection work and upon such notification the owner of such lands shall be liable to pay betterment contribution at the following rates, namely —

	Rate of levy Rs
(a) in case of an irrigation work, not being a storage dam or reservoir, where the flow of water is not perennial,	75 per acre
(b) in case of an irrigation work, not being a storage dam or reservoir, where the flow of water is perennial,	105 per acre.
(c) in case of a storage dam or reservoir,	120 per acre.
(d) in case of a flood protection work, where the land benefited is not situated within an urban area, and	50 per acre
(e) in case of a flood protection work where the land or building benefited is situated within an urban area,	Rs 200 per acre or 25 per cent of its annual value as entered in the valuation list prepared under section 101 of the Bihar and Orissa Municipal Act, 1922 (B & O. Act VII of 1922) or under section 133 of the Patna Municipal Corporation Act, 1951 (Bihar Act XIII of 1952), as the case may be, whichever is less:

Provided that where the lands or buildings benefited from an irrigation work or flood protection work lie within the local limits of the districts of Ranchi, Hazaribagh, Palamau, Singhbhum, Dhanbad or Santal Parganas, the rate of betterment contribution shall be four-fifths of the rates mentioned in clauses (a), (b), (c), (d) and (e).

Issue of demand notice.

5. After a notification under section 4 has issued, the Collector shall prepare an assessment list and cause a notice of demand to be prepared and served on the owner, in the prescribed manner, requiring him to pay the betterment contribution.

Objections to demand.

6. (1) Any owner who has been served with a notice of demand under section 5 may, within sixty days of the service of such notice, file, in the prescribed manner, a petition before the Collector objecting to the levy on any one or more of the following grounds, namely: —

(*i*) that his land has not been benefited by the irrigation work or flood protection work;

(*ii*) that he is not an owner in respect of the land or building;

(*iii*) that he is a privileged person within the meaning of clause (*i*) of section 2 of the Bihar Privileged Persons Homestead Tenancy Act, 1947; Bihar Act of 1948.

(*iv*) that he is not liable to pay the full amount of betterment contribution assessed to him ;

(*v*) that the amount of betterment contribution in respect of the land should be apportioned among the different owners of the same; or

(*vi*) that the area noted in the demand notice is not correctly recorded.

(2) On a petition under sub-section (1) being filed, the Collector shall give the petitioner a reasonable opportunity to adduce such evidence as he may like in support of his petition and after considering the evidence adduced and after such further inquiry, if any, as he may consider necessary, pass, for reasons to be recorded, such orders as he may deem fit:

Provided that no order of apportionment shall be made unless notice in this behalf has been served on each of the owners amongst whom apportionment is to be made :

Provided further that the apportionment of the betterment contribution assessed in respect of the land or building shall be made with due regard to the respective rights of the owners thereof.

Appeals.

7. (1) Any person aggrieved by an order made under section 6 may, within sixty days of the passing of such order, appeal,

(*i*) if the order has been passed by the Collector of the district, or the Deputy Commissioner, to the Commissioner; and

(*ii*) if the order has been passed by any other Officer, to the Collector of the district or the Deputy Commissioner, as the case may be:

Provided that the Commissioner as regards item (*i*) and the Collector of the district or the Deputy Commissioner, as the case may be, as regards item (*ii*) may, for sufficient cause extend, the time for preferring the appeal.

(2) The appeal shall be preferred and heard in such manner as may be prescribed and the authority hearing the appeal shall pass such order as it thinks fit

8 On an application made within forty five days of the passing of an order under section 7 the Board of Revenue, if the order has been passed by the Commissioner and the Commissioner, if the order has been passed by the Collector of a district or the Deputy Commissioner, as the case may be, may revise such order Revision

Provided that the Board of Revenue or the Commissioner, as the case may be, may, for sufficient cause, extend the time for making the application

9. Any order passed under section 8 and subject to the order passed under section 8, any order passed under section 7 and subject to orders passed under sections 7 and 8, any order passed under section 6, shall be final Finality of orders

10. In every appeal under section 7 and in every revision under section 8, the cost shall be in the discretion of the appellate or the revisional authority, as the case may be Costs in appeal or revision

11. Every owner shall become liable to pay the betterment contribution on the date of service of notice of demand under section 5 Liability of owner to pay the betterment contribution

12. If the State Government is satisfied— Remission or suspension of the recovery of betterment contribution in certain circumstances

(i) that the crops on any land lying within the area assessed to betterment contribution are seriously damaged on account of the failure of the irrigation work or the flood protection work, drought, flood, tempest, hailstorm or any other irresistible force, or

(ii) that the land being water-logged or due to some other causes has become unculturable, or

(iii) that the land has for some reason or the other ceased to receive irrigation from the irrigation work or to be benefited from the flood protection work, or

(iv) that the agricultural industry has received a set back on account of serious fall in the price of agricultural produce,

the State Government may, subject to such conditions as it may think fit, suspend the recovery of, remit or refund in full, or in part, the betterment contribution or any instalments thereof in respect of such land

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(2) (i) If within twelve months from the date of service of the notice under section 5, the owner pays the entire amount of the betterment contribution, a rebate at the rate of twenty *per centum* shall be allowed on such amount ments

(ii) If on any day after twelve months from the date of service of the notice under section 5 and within two years of such service, the owner pays the entire amount outstanding against him on account of betterment contribution, a rebate at the rate of fifteen *per centum* shall be allowed on such amount.

Deduction from betterment contribution.

14. Any person liable to pay any betterment contribution for lands benefited by the construction, improvement or maintenance of any irrigation work or flood protection work, shall be entitled to deduct from the amount of such betterment contribution any amount which the Collector finds to have been previously paid by him under the Bihar Public Irrigation and Drainage Works Act, 1947 to the State Government towards the cost of such work. Bihar X of 19[47]

Power of Civil Court to Collector and certain other authorities for certain purposes and proceeding to be judicial proceeding.

15. (1) The Collector or an authority before whom an appeal under section 7 or revision under section 8 lies, shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:— V of 19[08]

(a) enforcing the attendance of any person and examining him on oath or affirmation, and

(b) compelling the production of documents.

(2) Any proceeding under this Act before the Collector or an authority empowered to hear appeal under section 7 or revision under section 8, shall be deemed to be 'judicial proceeding' within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, 1860. XLV of 1[860]

Power to enter on land.

16. If, in the opinion of the Collector, it is desirable for the purpose of this Act so to do, he may, by general or special order, authorise any officer of Government and his subordinate officers and persons employed by him to enter upon any land and to do any act necessary for such purpose :

Provided that no person shall enter into any building or, any enclosed courtyard or garden attached to a dwelling house except with the consent of the occupier thereof, without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Power to compel production of documents, etc.

17. (1) The Collector or any person authorised by a general or special order by the Collector in this behalf may, for the purpose of this Act, by notice require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any land at the time and place specified in the notice.

(2) Every person required to make or deliver a statement or to produce any record or document under sub-section (1) shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code, 1860. XLV of 18[60]

Betterment contribution recoverable as public demand.

18. Any sum including interest thereon or cost of any appeal or revision due to the State Government under this Act, shall be a charge on the lands assessed to the betterment contribution and shall take priority over all other claims on

the lands except rent in respect thereof payable to the State Government and shall be recoverable as a public demand

19 The bet
under this Act h
debts in relation
or on the construction, improvement or major repairs of such works

Indemnity

20. No claim shall lie against the State Government for compensation or for the refund of betterment contribution on account of loss occasioned by any temporary failure or stoppage of water in an irrigation work or flood protection work or by any cause beyond the control of the State Government or by any repairs, alterations or additions made to such work

Bar to suits or proceedings

21. No suit, prosecution or other legal proceedings shall lie against any person in respect of any thing done or intended to be done in good faith under this Act or the rules made thereunder

Savings

22. [illegible] shall be defeated or [illegible] t or omission in the [illegible] 1, statement, notice or order, unless material injury is done to any person by such defect or omission

Power to make rules

23 (1) The State Government may, after previous publication, make rules not inconsistent with this Act for carrying out the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules to provide for all or any of the following matters namely —

(*a*) the manner in which petition under section 6 or an appeal under section 7 or a revision under section 8 shall be preferred and heard,

(*b*) the manner in which notice of demand under section 5 shall be prepared and served and the demand realised,

(*c*) the grant of suspension, abatement or remission of betterment contribution,

(*d*) the circumstances and the manner in which refund, if any, of the betterment contribution shall be allowed

(*e*)

(*f*) any other matter which is required to be or which may be prescribed under this Act

Removal of difficulty

24. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything, not inconsistent with this Act or the rules made thereunder, which appears to it necessary for the purposes of removing the difficulty

THE BOMBAY IRRIGATION ACT, 1879

[BOMBAY ACT NO. VII OF 1879]

[1][PART VI

WATER RATES, BETTERMENT CHARGES AND IRRIGATION CESS]

Supply Rates

Determination of rates for supply of canal-water.

44. Such rates shall be leviable for canal-water-supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by [2][the [3][State] Government].

Provision for cases in which existing water-supply is improved.

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to [4][the [3][State] Government] is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the suppiy was granted, or by any person who uses the water so supplied.

Occasional Rates

Liability when person using water unauthorisedly cannot be identified.

45. If water supplied through a water-course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom the person, or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the [2][[3][State] Government] under section 70.

Liability when water runs to waste.

46. If water supplied through a water-course be suffered to run to waste, and if, after inquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable,

[1]This heading was substituted for the original heading "Part VI—of Water Rates" by Bom. 59 of 1950, s. 3.

[2]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4]The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

or jointly liable, as the case may be, for the charges which shall be made in respect of the water so wasted under the rule prescribed by the [1][[2][State] Government] under section 70

All questions arising under this and the last preceding section shall, subject to the provisions of section 67, be decided by a Canal officer duly empowered in this behalf

Charges recoverable in addition to penalties

47. All charges for the unauthorized use of or waste of water may be recovered, as water rates, in addition to any penalties incurred on account of such use or waste

Percolation and Leakage Rates

Land deriving benefit from percolation liable to water rate

48 If it shall appear to a Canal officer duly empowered to enforce the provisions of this section that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal water for irrigation,

or that any cultivated land, wherever situate, derives by a surface flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal

Levy of water rate for use of percolation water for non irrigation purposes

[3][48A. (1) If it shall appear to a Canal officer duly empowered to enforce the provisions of this section, that any natural stream, artificial drain or well sunk within two hundred yards of any canal is deriving percolation water from such canal, and the water from such stream, drain or well is used for purposes other than those of irrigation, he may charge for use of such water a water rate not exceeding that as would ordinary have been charged if the supply had been made from the canal for such purposes

(2) The provisions of sub-section (1) shall not apply to water from such stream, drain or well used exclusively for domestic purposes by the residents of any village]

[4][*Betterment Charges*]

Scheme of irrigable lands under command and betterment charge on construction or improvement etc of a canal

49 When the construction of a new canal or the improvement or extension of an existing canal is undertaken, the State Government shall direct an officer empowered in this behalf to prepare a scheme showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was inserted by Bom 29 of 1951, s 4

[4] This heading and sections 49 to 56 F were inserted by Bom. 59 of 1950, s. 4.

Publication of scheme and notice to owners and persons interested.

50. (1) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(2) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal; and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned the officer concerned shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50, make an award. The award shall specify—

Bom. V 1879.

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

53. (1) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector

Appeals to the Collector

V of 1879.

(2) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to such appeals, as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior

54. The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award of the decision of the Collector

Revision by State Government

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final

Finality of orders of State Government, Collector's decision and award

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable

Betterment charges to be first charged on land next to land revenue

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70

Payment of betterment charges

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules

56B. Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules

Relinquishment or exchange of land in lieu of the payment of betterment charges

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

Publication of scheme and notice to owners and persons interested.

50. (1) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(2) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal; and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned the officer concerned shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, (Bom. V of 1879.) and after hearing the objections, if any, stated by the persons as required by notice under section 50, make an award. The award shall specify—

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the 'completion date.

Appeals to the Collector

53. (1) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector

V of (2) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879 shall apply to such appeals, as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior

Revision by State Government

54. The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award of the decision of the Collector

Finality of orders of State Government, Collector's decision and award

55 Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final

Betterment charges to be first charged on land next to land revenue

56. From the date specified in the award as the date from which the betterment charges shall be leviable or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable

Payment or betterment charges

56A The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules

Relinquishment or exchange of land in lieu of the payment of betterment charges

56B Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to re-
rt of the land or to deliver
State Government on such
by rules

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances

Publication of scheme and notice to owners and persons interested.

50. (1) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(2) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal; and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned the officer concerned shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50, make an award. The award shall specify— Bom. V of 1879.

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

53. (1) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector. Appeals *to the* Collector

V of (2) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to such appeals, as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior.

54. The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award of the decision of the Collector. Revision by State Governmen

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final. Finality of *orders of* State Government, Collector's decision *and award*

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable. Betterment charges to be first charged on land next to land revenue

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70. Payment or betterment charges

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules.

56B Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules. Relinquish*ment or* exchange of land in lieu of the pay*ment of* betterment charges.

Provided that no such relinquishment or exchange * be permitted unless the land is free from encumbranc

Publication of scheme and notice to owners and persons interested.

50. (1) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(2) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal; and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned the officer concerned shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50, make an award. The award shall specify—

Bom. V of 1879.

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

) Any person aggrieved by the award may, to the Collector
y days from the date of the award, appeal to the

he provisions of Chapter XIII of the Bombay
venue Code, 1879, shall apply to such appeals,
officer empowered under section 49 was a Revenue
and the Collector was his immediate superior

The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award of the decision of the Collector

Revision by State Government

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final

Finality of orders of State Government, Collector's decision and award

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable

Betterment charges to be first charged on land next to land revenue

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70

Payment or betterment charges

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules

56B. Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules

Relinquishment or exchange of land in lieu of the payment of betterment charges

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances

Recovery of Water rates and other Dues in Arrears

[1][57. (1) Every water rate leviable or charged under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the [2][State] Government [3]* * * * * *

Payment and recovery of water rates and other dues

(2) Any such rate of the instalment thereof which is not paid on the date when it becomes due shall be deemed an arrear of land revenue due on account of the land for the use of which canal water was supplied or which was benefited by percolation or leakage from any canal and shall be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land

om. V of 1879

[4][The amount of the betterment charges or any of its instalments together with interest thereon, if not paid on the date specified in section 56A and the amount of the irrigation cess if not paid on the date specified in section 56F shall be deemed to be arrear of land revenue due on account of the land in respect of which it is payable and shall also be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land]

Bom. V of 1879

(3) Any rent payable to the owner of a water-course by a person authorized to use such water-course may be paid in such instalments and on such dates as the Canal-officer duly empowered to act under section 23 shall direct and no more of such rent shall at any time be payable to the owner thereof than is actually recovered from the person liable to pay

(4) (*a*) Any other sum due to the [2][State] Government or to a Canal officer under the provisions of this Act whether on behalf of the [2][State] Government or any other person under Part III of this Act which is not paid when demanded shall, and

(*b*) any rent or instalment thereof payable to the owner of a water course, which is not paid when it becomes due may, on behalf of the owner,

be recoverable as arrears of land revenue in accordance with the provisions of the Bombay Land Revenue Code, 1879

Bom. V of 1879

[1]Section 57 was substituted by Bom 64 of 1948, s 2

[2]This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950

[3]The words "or of any Commissioner empowered by the Provincial Government in this behalf" were deleted by Bom 28 of 1950, Sch

THE BOMBAY HIGHWAYS ACT, 1955

[BOMBAY ACT NO. LV OF 1955]

CHAPTER I

1. (1) This Act may be called the Bombay Highways Act, 1955.

(2) It shall extend to the whole of the [1][Pre-Reorganisation State of Bombay excluding the transferred-territories and the City of Bombay]

* * * * * *

CHAPTER VI

LEVY OF BETTERMENT CHARGES

Notice to owners and persons interested.

41. Where any work which the Highway Authority is empowered to undertake by or under the provisions of this Act is undertaken, the officer authorised by the State Government in this behalf shall give notice to the persons known or believed to be the owners of or interested in the lands benefited by such work requiring them to appear before him either personally or by an agent at a time and place therein mentioned (such time not being earlier than 30 days from the date of notice) to state their objections, if any, to the imposition and recovery of betterment charges on such lands :

Provided that no such notice shall be given unless the Collector with the previous sanction of the State Government has declared that the value of such lands is likely to increase or has increased by reason of the construction of such work.

Inquiry and order.

42. On the date fixed under section 41 or on such other date to which the inquiry may be adjourned, the officer authorised under section 41 shall, after holding a formal inquiry and after hearing the objections, if any, stated by the persons as required by notice under section 41, make an order. The order shall specify,—

(*a*) the lands benefited by the construction of the work,

(*b*) the increase in the value of such lands by the proposed construction,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land—

(*a*) which is unsuitable for development as a building site, or

(*b*) which is situate beyond a distance of one furlong from the middle of the highway on either side.

[1]Subs. by Bombay Adaptation of Laws Order, 1956.

Increase in value and betterment charges

43. The increase in value on account of the construction of such work shall be the amount by which the value of the land on the date of the completion of the proposed work is likely to exceed or has exceeded the value of the land on the date of the commencement of the said work and the betterment charges shall be one half of such increase in value

Explanation —For the purposes of this section, the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of commencement of the construction of any work,

(*b*) the date of completion of such work

Reference against order of authorised officer under section 42

44. (1) Any person aggrieved by the order fixing the betterment charges may, by a written application to *the officer authorised* under section 41, *require that the* matter be referred, if the land in relation to which the order is made is situate,—

(*i*) in Greater Bombay, to the Principal Judge of the City Civil Court or such other Judge of the said Court as may be nominated by the State Government in consultation with the Principal Judge, and

(*ii*) elsewhere, to the Civil Judge (Senior Division) of the district within the limits of whose jurisdiction the land is situate

(2) Any such application shall be made within six weeks from the date on which the order of the officer referred to in sub section (1) was communicated to such person and shall be in such form as may be prescribed

(3) The provisions of sections 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the computation of the time fixed for reference under sub section (2)

(4) The Officer authorised under section 41 shall make the reference in such manner as may be prescribed.

Finality of order fixing betterment charges and of decision on reference

45. The order fixing the betterment charges made under section 42, subject to a reference to the Authority under section 44 and the decision of the Authority on reference under section 44, shall be final

Betterment charges to be first charge on land next to land revenue.

46. From the date specified in the order fixing the betterment charges as the date from which such charges shall be leviable, or from such date as may be otherwise specified by the Authority under section 44 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge on the land in respect of which such betterment charges are leviable

Payment of betterment charges.

47. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 71 :

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed.

Relinquishment of or exchange of and in lieu of payment of betterment charges.

48. Notwithstanding anything contained in section 47, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in lieu of payment of the charges in favour of the State Government on such conditions as may be prescribed :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

THE SAURASHTRA IRRIGATION ACT, 1951

[SAURASHTRA ACT XV OF 1951]

[1]['PART VI WATER RATES AND BETTERMENT CHARGES"]

"Betterment Charges"

Scheme of irrigable lands under command and betterment charges on construction or improvement etc of a Canal

"46-A. When the construction of a new canal or the im provement
continued
direct an
me showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands

Publication of scheme and notice to owners and persons interested.

46-B. (1) The scheme prepared as provided in section 46-A shall be published in the official Gazette and in such other manner as may be prescribed by rules

(2) The Officer empowered under section 46 A shall also give notice in such form as may be prescribed by Government to the persons known or believed to be the owners of, or interested in, the lands under irrigable command of the canal requiring them to appear before him, either personally or by agent, at a tin
(such time not being
the notice), to state t

(a) to the inclusion of the lands in the scheme as the land under irrigable command of the canal,

(b) to the imposition and recovery of the betterment charges on such lands

Enquiry and award

46-C. On the date fixed under section 46 B, or on such other date to which the enquiry may be adjourned, the officer concerned, after holding a formal enquiry in the manner provided by the Bombay Land Revenue Code, 1879, as adapted and applied to the State, and after hearing the objections, if any, stated by the persons as required by notice under section 46-B, make an award in such form as may be prescribed by Government The award shall specify—

(a) the lands under irrigable command of the canal,

(b) the increase in value of such lands by the completion or the construction of new canal or the improvements or extension of an existing canal,

(c) the amount of betterment charges leviable on each of the said lands,

(d) the date from which such betterment charges shall be leviable

Provided that no betterment charges
in respect of any land which is un

[1] Part VI was inserted by Saurashtra Act XV of

Levy of betterment charges.

46-D. (1) The betterment charges shall be leviable at the rate which shall not be less than Rs. 82/8/- per acre, or more than Rs. 112/8/- per acre, of the land under irrigable command of any canal referred to in section 46-A. The exact levy of betterment charges per acre under this sub-section shall be determined by the officer empowered under section 46-A, who, in determining such charges, shall take into consideration the increase in value of such land on account of the completion of the construction of a new canal or the improvement or the extension of an existing canal, the irrigation facilities available and the nature of the land,

(2) The betterment charges payable under sub-section (1) shall be paid in fifteen equal annual instalments payable on a date fixed by the officer giving the award. In case of transfer of the land, all the betterment charges that may be due or leviable on the land so transferred shall be paid immediately.

(3) In lieu of the rate specified in sub-section (1), the betterment charges may, at the option of the owner of the land chargeable therewith, be levied in respect of land under irrigable command of any canal referred to in section 46-A at the rate of fifty per cent of the increase in value of such land on account of the completion of the construction of a new canal or the improvement or the extension of an existing canal.

(4) The betterment charges leviable under sub-section (3) shall be paid on the date fixed under the rules made by Government under section 60 :

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the Government agreeing to pay the amount of such charges by annual instalments together with interest at the rate of four per cent per annum and within such period as may be prescribed by rules.

(5) The option exercisable under sub-section (3) shall be exercised by the owner of the land and communicated in writing to the officer empowered under section 46-A within 30 days from the date of the service of the notice under sub-section (2) of section 46-B and it shall be final. If the owner fails to exercise such option within this period, such officer shall proceed to determine the rate of betterment charges under sub-section (1).

Explanation.—For the purposes of this section—

(1) the increase in value shall be the amountby which the value of the land on the completion date is likely to exceed the value of the land on the construction date.

(2) the Government shall, by notification in the *Official Gazette*, specify—

(a) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(b) the date of completion of the construction, improvement or extension of a canal, as the completion date.

Appeal to the Collector.

46-E. (1) Any person aggrieved by the award made under section 46-C may, within 60 days of the date of the award, appeal to the Collector.

(2) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, as adapted and applied to the State, shall apply to such appeals as if the officer empowered under section 46-A was a Revenue Officer and the Collector was his immediate superior.

Revision by Government.

46-F. The Government may call for and examine the record of any enquiry under section 46-C or of the proceedings in appeal under section 46-E for the purpose of satisfying itself as to the legality or regularity of such enquiry or proceedings and may modify or reverse the award or the decision of the Collector.

Finality of [illegible] award.

46-G. Any order passed by the Government in revision [illegible] Collector on appeal, the award made under section 46-C shall be final.

[illegible] on land next re- [illegible]

[illegible] nue if any due to the Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Relinquishment or ex- [illegible] change of

46-I. Notwithstanding anything contained in section 46-D, the Government may allow the owner of the land on [illegible]

[1]THE TRAVANCORE-COCHIN IRRIGATION ACT, 1956

No. VII OF 1956

An Act to provide for the construction, repair and maintenance of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of betterment contribution and water cess.

PART I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Travancore-Cochin Irrigation Act, 1956.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "Collector" means the Collector of a district;

(2) "contribution" means the betterment contribution referred to in section 17 ;

(3) "irrigation" with its grammatical variations includes "drainage" with its corresponding variations ;

(4) "Irrigation Officer" means an officer appointed by the Government to perform all or any of the functions of an Irrigation Officer under this Act;

(5) "irrigation work" includes—

(*a*) all canals, channels, reservoirs and tanks which are intended or which are or may be used for the supply and storage of water for agricultural purposes ;

(*b*) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs or tanks ;

(*c*) all water-courses which are supplied with water from such canals, channels, reservoirs or tanks;

(*d*) all drainage works, that is to say canals, channels, escape channels from a canal, channel, reservoir or tank, dams, weirs, embankments, sluices, groynes or other works for the protection or benefit of agricultural lands, or for the reclamation of *kole* lands, *kayal* lands, *kari* lands, or such other lands ; and

(*e*) all lands occupied by the Government for the purposes of such canals, channels, reservoirs, tanks and all buildings, machinery, fences, gates and

[1]Re-enacted permanently in Madras (Transferred Territory) by Madras Act 18 of 1957.

other erections occupied by or belonging to the Government upon such lands ,

(6) "landholder" in relation to any land means the person liable to pay to the Government the public revenue due on the land

V of Provided that in respect of any land comprised in the holding of a kanam tenant in the territory to which the Kanam Tenancy Act, 1955, extends, the kanam tenant and not the jenmi shall be deemed to be the landholder in respect of such land,

(7) "lift irrigation work" means an irrigation work by which water for irrigation purposes is supplied with the aid of pumping sets or other mechanical devices ,

(8) "major irrigation work" includes lift irrigation work and all irrigation works irrigating or useful for the drainage or protection of an extent of over 200 acres ,

(9) "majority of proprietors" means the proprietors of more than one half of the acreage benefited by an irrigation work ,

(10) "minor irrigation work" includes all irrigation works other than major and petty irrigation works ,

(11) "notification" means a notification published in the Gazette ,

(12) "petty irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of not over five acres ,

(13) "prescribed" means prescribed by rules made under this Act ,

(14) "proprietor" means the owner of the land and includes the cultivator or person in actual possession of such land

3. The Government may, from time to time, by notification, invest any officer or any Board constituted under this Act or any member thereof with all or any of the powers or duties conferred or imposed by or under this Act on the Government and shall declare the local limits within which such powers or duties shall be exercised or performed Conferment of powers

PART II

PETTY AND MINOR IRRIGATION WORKS

4 (1) The construction, repair and maintenance of all petty irrigation works shall devolve upon the panchayat within the local limits of which such petty irrigation works are situated Construction repair and maintenance of petty gation

Provided that the construction, repair and of petty irrigation works in local areas where

[1]THE TRAVANCORE-COCHIN IRRIGATION ACT, 1956

No. VII of 1956

An Act to provide for the construction, repair and maintenance of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of betterment contribution and water cess.

Part I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Travancore-Cochin Irrigation Act, 1956.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "Collector" means the Collector of a district;

(2) "contribution" means the betterment contribution referred to in section 17 ;

(3) "irrigation" with its grammatical variations includes "drainage" with its corresponding variations ;

(4) "Irrigation Officer" means an officer appointed by the Government to perform all or any of the functions of an Irrigation Officer under this Act;

(5) "irrigation work" includes—

(*a*) all canals, channels, reservoirs and tanks which are intended or which are or may be used for the supply and storage of water for agricultural purposes ;

(*b*) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs or tanks ;

(*c*) all water-courses which are supplied with water from such canals, channels, reservoirs or tanks;

(*d*) all drainage works, that is to say canals, channels, escape channels from a canal, channel, reservoir or tank, dams, weirs, embankments, sluices, groynes or other works for the protection or benefit of agricultural lands, or for the reclamation of *kole* lands, *kayal* lands, *kari* lands, or such other lands ; and

(*e*) all lands occupied by the Government for the purposes of such canals, channels, reservoirs, tanks and all buildings, machinery, fences, gates and

[1]Re-enacted permanently in Madras (Transferred Territory) by Madras Act 18 of 1957.

other erections occupied by or belonging to the Government upon such lands ,

(6) "landholder" in relation to any land means the person liable to pay to the Government the public revenue due on the land

Provided that in respect of any land comprised in the holding of a kanam tenant in the territory to which the Kanam Tenancy Act, 1955, extends, the kanam tenant and not the jenmi shall be deemed to be the landholder in respect of such land, / of

(7) "lift irrigation work" means an irrigation work by which water for irrigation purposes is supplied with the aid of pumping sets or other mechanical devices ,

(8) "major irrigation work" includes lift irrigation work and all irrigation works irrigating or useful for the drainage or protection of an extent of over 200 acres ,

(9) "majority of proprietors" means the proprietors of more than one-half of the acreage benefited by an irrigation work ,

(10) "minor irrigation work" includes all irrigation works other than major and petty irrigation works ,

(11) "notification" means a notification published in the Gazette ,

(12) "petty irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of not over five acres ;

(13) "prescribed" means prescribed by rules made under this Act ,

(14) "proprietor" means the owner of the land and includes the cultivator or person in actual possession of such land

3. The Government may, from time to time, by notification, invest any officer or any Board constituted under this Act or any member thereof with all or any of the powers or duties conferred or imposed by or under this Act on the Government and shall declare the local limits within which such powers or duties shall be exercised or performed Conferment of powers

PART II

PETTY AND MINOR IRRIGATION WORKS

4. (1) The construction, repair and maintenance of all petty irrigation works shall devolve upon the [illegible] within the local limits of which such petty irrigation [illegible] are situated [illegible]

Provided that the construction, repair and [illegible] of petty irrigation works in local [illegible] to

custom such works are carried out, repaired or maintained by the Government wholly at their cost, may be taken up by the Government.

(2) The panchayat may, with the previous sanction of the Government, levy an annual cess on any area benefited by a petty irrigation work constructed, repaired or restored wholly or partly at the cost of the panchayat.

(3) Such cess shall be fixed upon an acreage basis and so as to ensure to the panchayat a return not exceeding three per cent on the capital expenditure incurred by the panchayat after making provision for depreciation and maintenance :

Provided that the cess so fixed shall not exceed Rs. 3-8-0 per acre.

Construction, repair and maintenance of minor irrigation works.

5. (1) Save as otherwise provided, the construction, repair and maintenance of all minor irrigation works shall devolve upon the Government.

(2) The Government may levy an annual cess on any area benefited by a minor irrigation work constructed wholly or partly at the cost of the Government.

(3) The cess under sub-section (2) shall be fixed upon an acreage basis and so as to ensure to the Government a return not exceeding three per cent on the capital expenditure incurred by the Government after making provision for depreciation and maintenance :

Provided that the cess so fixed shall not exceed Rs. 3-8-0 per acre.

(4) If the majority of the proprietors agree to repay the cost incurred by the Government on any minor irrigation work, no cess shall be levied on the lands benefited by such work, but the proprietors shall be liable to maintain the work in such manner and within such time as may be prescribed. The cost incurred by the Government on such work shall be a first charge on the lands benefited and shall be recovered *pro rata* from such lands as arrears of public revenue in such equal annual instalments, not less than five, and on such dates as may be fixed by the Government from time to time together with interest at three per cent per annum :

Provided that the Government may remit in whole or in part the cost incurred by them on any such work and the interest thereon.

(5) The Government may levy an annual cess on any area benefited by a minor irrigation work existing at the commencement of this Act and which is restored or repaired after such commencement wholly or partly at the cost of the Government.

(6) The cess under sub-section (5) shall be fixed upon an acreage basis and so as to ensure to the Government a return

not exceeding three per cent on the total cost incurred by them after making provision for the cost of maintenance of such work

Provided that the cess so fixed shall not exceed Rs 3-8-0 per acre

(7) Nothing in sub sections (2), (3), (4), (5) and (6) shall apply to minor irrigation works in local areas where according to custom the construction, repair and maintenance of such works are carried out by the Government wholly at their cost

Procedure of the Collector on an application for execution of new minor irrigation works

6. If in any local area the Collector is satisfied on the application of any proprietor interested in a minor irrigation work or otherwise and after making such enquiries as he may deem necessary that the work should be executed in the interest of the majority of proprietors, he may cause a plan and an estimate of the work and a specification of the lands likely to be benefited thereby to be prepared

Notice to put in objections

7. (1) The plan, estimate and specification prepared under section 6 shall be forwarded to the Government and an abstract of the estimate and the specification of the lands likely to be benefited shall be published in the Gazette with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objections before the Collector within a time to be specified in the notice and such notice shall also be served upon the proprietors concerned

(2) The Collector shall hear and record the objections, if any, which may be put in and forward the same to the Government with his opinion

When Government may carry out the work

8. If no objections have put in or if the majority of proprietors agree to the work, the estimate may be sanctioned and the work carried out at the cost of the Government In any case in which the majority of the proprietors do not agree, if it be found, after duly considering their objections, that the work proposed should be executed in the interest of the proprietors the Government may order the work to be carried out at the cost of the Government

Accident to any petty or minor irrigation work

9 (1) If in the case of any accident being apprehended or happening to any petty or minor irrigation work, any work in the nature of an urgent repair is needed, failure to carry out or delay in carrying out which is likely to cause serious damage, the Collector may, notwithstan[illegible] thing contained in sections 4 to 8, order the [illegible] such work at the cost of the Government and [illegible] to the Government, and in the case of petty [illegible] to the panchayat concerned, the action t[illegible]

(2) The cost of any work carried out [illegible] on (1) shall be recoverable—

(a) in the case of a petty irrigation [illegible] chayat concerned , and

(*b*) in the case of a minor irrigation work, the cost of construction of which is recoverable under sub-section (4) of section 5, *pro rata* from the proprietors.

Execution of work for the proper maintenance of petty and minor irrigation works.

10. It shall be the duty of the Irrigation Officer to inspect periodically all petty and minor irrigation works situated within the local limits of his jurisdiction, and to report to the Collector the condition of those works. If the Collector finds that any work is to be executed for the satisfactory maintenance of any petty or minor irrigation work, he may, in the case of a minor irrigation work, execute the work at the cost of the Government and with their sanction, and in the case of a petty irrigation work, require the panchayat concerned to execute the work within such time as may be fixed by him. If the work is not executed within the time fixed, the panchayat shall be deemed to have made default in performing a duty imposed by this Act and the provisions of section 38 of the Travancore-Cochin Panchayats Act, 1950, shall, so far as may be, apply in relation to the execution of any such work. II of 1950.

PART III

MAJOR IRRIGATION WORKS

Construction, repair and maintenance of major irrigation works.

11. The construction, repair and maintenance of all major irrigation works shall devolve on the Government.

Procedure of construction of major irrigation work.

12. If in any local area, the Collector is satisfied on the application of any proprietor or otherwise, that any new major irrigation work should be constructed or repaired, such officer may cause a plan and an estimate of the work and a specification of the lands likely to be benefited thereby to be prepared.

Investigation of objections.

13. The plan, estimate and specification prepared under section 12 shall be forwarded to the Government and an abstract of the estimate and the specification of the lands likely to be benefited shall be published in the Gazette with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objections before the Collector within a time to be specified in the notice. The Collector shall hear and record the objections, if any, which may be put in and forward the same to the Government with his opinion.

When the Government may carry out the work.

14. If it be found after duly considering the objections that the work proposed should be executed in the interests of the proprietors the Government may order the work to be carried out at the cost of the Government.

Power to levy cess.

15. (1) The Government shall be entitled to levy an annual cess on any land benefited by a major irrigation work the construction, expansion or alteration of which the Government have undertaken.

Explanation —A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed provided such non enjoyment is not due to any default on the part of the Government

(2) In the case of lands benefited by a major irrigation work the construction, expansion or alteration of which the Government have undertaken before the 1st January, 1943, the cess leviable under sub section (1) shall be fixed upon an acreage basis and so as to ensure to the Government a return not exceeding three per cent on the capital outlay after making provision for depreciation and maintenance

(3) In the case of lands benefited by a major irrigation work the construction, expansion or alteration of which the Government have undertaken on or after the 1st January, 1943, the cess leviable under sub section (1) shall be at the following rates —

(*a*) lands already registered as single crop wet lands and on which two or more paddy crops could be raised	Rs 6 per acre
(*b*) other lands already registered as wet lands	Rs 5 per acre
(*c*) lands made fit for cultivation and on which only one paddy crop could be raised	Rs 6 per acre
(*d*) lands made fit for cultivation and on which to or more paddy crops could be ra sed	Rs 10 per acre
(*e*) other lands benefited .	at such rates per acre not exceeding rupees ten as may be fixed by the Government from time to time

clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*), as the case may be

Explanation—The right of the Government to levy cess at the rates specified in this sub section shall not be affected by the fact that the lands are cultivated with crops other than paddy or that the lands are not actually cultivated

(4) Arrears of cess levied under this section shall bear interest at the rate of four per cent per annum

16 It shall be the duty of the Irrigation Officer to periodically inspect all major irrigation works and report to the Chief Engineer the condition of those works The Chief Engineer may on being satisfied from the report or from other reliable information that any work is to be executed for the proper maintenance of the work, execute at the cost of the Government

Irrigation Officer to report periodically

(*b*) in the case of a minor irrigation work, the cost of construction of which is recoverable under sub-section (4) of section 5, *pro rata* from the proprietors.

Execution of work for the proper maintenance of petty and minor irrigation works.

10. It shall be the duty of the Irrigation Officer to inspect periodically all petty and minor irrigation works situated within the local limits of his jurisdiction, and to report to the Collector the condition of those works. If the Collector finds that any work is to be executed for the satisfactory maintenance of any petty or minor irrigation work, he may, in the case of a minor irrigation work, execute the work at the cost of the Government and with their sanction, and in the case of a petty irrigation work, require the panchayat concerned to execute the work within such time as may be fixed by him. If the work is not executed within the time fixed, the panchayat shall be deemed to have made default in performing a duty imposed by this Act and the provisions of section 38 of the Travancore-Cochin Panchayats Act, 1950, shall, so far as may be, apply in relation to the execution of any such work. II of 1950.

PART III

MAJOR IRRIGATION WORKS

Construction, repair and maintenance of major irrigation works.

11. The construction, repair and maintenance of all major irrigation works shall devolve on the Government.

Procedure of construction of major irrigation work.

12. If in any local area, the Collector is satisfied on the application of any proprietor or otherwise, that any new major irrigation work should be constructed or repaired, such officer may cause a plan and an estimate of the work and a specification of the lands likely to be benefited thereby to be prepared.

Investigation of objections.

13. The plan, estimate and specification prepared under section 12 shall be forwarded to the Government and an abstract of the estimate and the specification of the lands likely to be benefited shall be published in the Gazette with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objections before the Collector within a time to be specified in the notice. The Collector shall hear and record the objections, if any, which may be put in and forward the same to the Government with his opinion.

When the Government may carry out the work.

14. If it be found after duly considering the objections that the work proposed should be executed in the interests of the proprietors the Government may order the work to be carried out at the cost of the Government.

Power to levy cess.

15. (1) The Government shall be entitled to levy an annual cess on any land benefited by a major irrigation work the construction, expansion or alteration of which the Government have undertaken.

Explanation—A land shall be deemed to be benefited twithstanding that the benefit is not enjoyed provided h non enjoyment is not due to any default on the part of Government

(2) In the case of lands benefited by a major irrigation rk the construction expansion or alteration of which the overnment have undertaken before the 1st January, 1943, *cess leviable under sub section (1) shall be fixed upon an* eage basis and so as to ensure to the Government a return t exceeding three per cent on the capital outlay after aking provision for depreciation and maintenance

(3) In the case of lands benefited by a major irrigation rk the construction, expansion or alteration of which the vernment have undertaken on or after the 1st January, 43 the cess leviable under sub section (1) shall be at the lowing rates —

(*a*) lands already registered as single crop wet lands and on which two or more paddy crops could be raised	Rs 6 per acre
(*b*) other lands already registered as wet lands	Rs 5 per acre
(*c*) lands made fit for cultivation and on which only one paddy crop could be raised	Rs 6 per acre
(*d*) lands made fit for cultivation and on which to or more paddy crops could be raised	Rs 10 per acre
(*e*) other lands benefited	at such rates per acre not exceeding rupees ten as may be fixed by the Government from time to time

Provided that in cases where irrigation water is availed of bailing or by means of mechanical contrivance the water s leviable shall be at 50 per cent of the rates specified in use (*a*) or clause (*b*) or clause (*c*) or clause (*d*) as the case y be

Explanation—The right of the Government to levy cess at rates specified in this sub section shall not be affected by fact that the lands are cultivated with crops other than ddy or that the lands are not actually cultivated

(4) Arrears of cess levied under this section shall bear erest at the rate of four per cent per annum

16 It shall be the duty of the Irrigation Officer to periodi lly inspect all major irrigation works and report to the uef Engineer the condition of those works The Chief ngineer may on being satisfied from the report or from her reliable information that any work is to be executed the proper maintenance of the work, execute the work the cost of the Government

Irrigation Officer to *report periodically on condition of* major irrigation works

& S 60

PART IV

BETTERMENT CONTRIBUTION

Levy of betterment contribution.

17. The Government shall be entitled to levy a betterment contribution, in accordance with the provisions of this Part from the landholder of any land which, in their opinion, is benefited by any major irrigation work the construction, expansion or alteration of which the Government have undertaken on or after the 1st January, 1943.

Explanation.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed provided such non-enjoyment is not due to any default on the part of the Government.

Amount of betterment contribution

18. (1) The lands benefited by the construction, expansion or alteration of any major irrigation work shall be divided into suitable classes by the Government and the annual increase in the gross produce of each class of lands consequent on the provision of irrigation facilities shall be estimated :

Provided that all lands which are of the same *taram* and which, judged by their commandability, are so situated as to derive the same amount of benefit from the work shall be placed in the same class.

(2) The annual increase in the gross produce shall be estimated with reference to the average of the prices prevailing during the five years immediately preceding the date of making such estimate.

(3) Twenty times the annual increase in the gross produce estimated under sub-section (1) shall be deemed to be the increase in the capital value of each class of land ; and one-fourth of the sum by which the said increase in the capital value exceeds the cost (estimated in the prescribed manner) of making such class of land fit for advantageous irrigation under the major irrigation work shall be the contribution payable in respect of that class of land.

Explanation.—The cost of making each class of land fit for advantageous irrigation shall include the cost of converting dry land into wet land.

(4) The contribution payable in respect of each class of lands expressed in terms of rate per acre shall be notified in the Gazette and in such other manner, if any, as may be prescribed :

Provided that the officer authorised in that behalf shall, before determining the contribution under the foregoing provisions of this section publish his proposals in the prescribed manner and shall consider suggestions and objections received within the time allowed.

(5) An appeal shall lie to the prescribed authority against a decision with respect to the contribution notified under sub-section (4) and any modification made on such appeal shall be notified in the prescribed manner.

(6) An order notified under sub-section (4) or, where it

of law.

19. The contribution payable under this Part in respect of any land shall be deemed to be public revenue due upon the said land, and the land, the buildings upon it and its products shall be regarded as the security of the contribution When the whole or portion of an instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment or its unpaid portion shall be deemed to be an arrear of land revenue and the provisions of the Travancore-Cochin Revenue Recovery Act, 1951, shall apply to the recovery of the said arrear as they apply to the recovery of the revenue due on the land Contributio recoverable as arrear of land revenue

VII of 1951.

20. (1) Contribution shall become payable under this Part on a written notice of demand therefor issued by an officer authorised by the Government in this behalf being served on the landholder When contribution becomes payable

Provided that no such notice shall be served until the expiry of two years after the date of provision of irrigation facilities to the land concerned.

(2) For the purpose of sub-section (1), the date of provision of irrigation facilities to a particular area commanded by the major irrigation work shall be the date which the Government may, by notification, specify.

(3) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other th[illegible] in the land or on a[illegible] or in respect of any

21. (1) The contribution payable by a landholder shall be paid by him in twenty equal annual instalments Mode of payment of contribution

Provided that he shall be entitled to pay the entire contribution with a rebate of twenty per cent within a period of one year from the date on which he becomes liable to pay the contribution.

(2) Arrears of instalments of the contribution shall bear interest at the rate of four per cent per annum

22. If the Government accept any money fr[illegible] person for the construction, expansion or altera[illegible] major irrigation work and such person becomes [illegible] pay contribution in respect of any land benefi[illegible] construction, expansion or alteration, the sum [illegible] from him shall be credited towards the [illegible] by him [illegible]ebate

Right of reimbursement in respect of contribution.

23. Where in respect of a particular land two or more persons are liable to pay contribution under this Part nothing in the Part shall be deemed to affect the right of each such person to reimbursement from the other.

Tenant or mortgage liable to pay instalment of contribution.

24. Notwithstanding anything contained in sections 17, 19, 20 and 21 where any land benefited by a major irrigation work is in the occupation of a tenant under a lease and the lessor is not entitled to enhance the rent either under any law governing the lease or under the contract of tenancy, or where such land is in the possession of a mortgagee, the liability to pay the instalment of the contribution falling due during the period of occupation or possession shall be on the tenant or the mortgagee, and the amount so due shall be a charge on the interest of such tenant or mortgagee in the said land and it shall be recoverable from such tenant or mortgagee as an arrear of land revenue and the provisions of sections 17, 20 and 21 shall apply in relation to any such instalment as they apply in relation to an instalment due from a landholder.

Exemption.

25. If, in the opinion of the Government, the enforcement of all or any of the provisions of this Part will cause hardship in the case of any class or classes of lands in any locality, the Government may, by notification, setting out the grounds therefor, exempt either permanently or for a specified period, such class or classes of lands from all or any of the provisions of this Part, subject to such conditions, if any, as the Government may deem fit to impose.

Postponement of recovery of contribution.

26. Where there has been a failure of crops in any area, the Government may, notwithstanding anything contained in this Part or the rules made under this Act, postpone for such period as they may think fit, the recovery of any instalment of the betterment contribution.

PART V

OBTAINING MATERIALS IN EMERGENCIES

Impressment of materials for urgent works of repair, etc.

27. (1) Whenever it appears to an Irrigation Officer that unless some work or repair is immediately executed any irrigation or drainage work would sustain such serious damage as to cause sudden and extensive public injury, such officer or other person authorised by him in this behalf may enter upon or into any immovable property in the neighbourhood of any such irrigation or drainage work and take possession of, appropriate and remove any trees and any timber, bamboos, mats, ropes, straw, earth, stones or other materials found in or upon such property, and use the same for the purpose of such work, repair or clearance. The Irrigation Officer or other person authorised by him who appropriates and removes any materials as aforesaid shall prepare an inventory thereof and keep t as record with his signature affixed thereto.

(2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

28. All persons whose materials may be taken under section 27 shall, as soon as may be reasonably practicable and in any case within 15 days from the date on which the work or repair was completed, be paid by the Irrigation Officer for such materials at 25 per cent in excess of their se of dispute as to the pre- Officer shall at once refer Collector, and such decision shall be final Payment for the materials taken

29 Whenever as a result of the removal under section 27 of any trees bamboos, earth, stone or other materials, any other damage results directly to any person, the Irrigation Officer shall pay or tender payment for such damage and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector and such decision shall be final Compensation for damage in taking materials

PART VI

REGULATION OF WATER SUPPLY

30 (1) The distribution of the water of all minor and major irrigation works constructed, repaired or maintained wholly or partly at the cost of the Government shall be regulated by such rules or orders as may be prescribed or issued by Government from time to time Distribution of water from irrigation works

(2) The distribution of water from all petty irrigation works constructed, repaired or maintained wholly or partly at the cost of the panchayat shall be regulated by such bye-laws as may be framed in that behalf by the panchayat The distribution of water from petty irrigation works, in local areas where according to custom such works are carried out, repaired or maintained by the Government wholly at their cost shall be regulated by such rules or orders as may be prescribed or issued by Government from time to time

PART VII

PENALTIES AND PROCEDURE

31. Whoever without proper authority does any of the following acts, that is to say,— Offences punishable under the Act.

(1) injures, alters, enlarges or obstructs any irrigation work,

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any irrigation work,

(3) interferes with or alters the flow of water in any irrigation work so as to endanger, injure or render less useful any such work,

(4) being entitled to the use of the irrigation water causes or occasions waste of the water in irrigation work or interferes with the distribution of water therefrom or uses in an unauthorised manner,

(5) corrupts or fouls the water of any irrigation work so as to render it less fit for the purposes for which it is ordinarily used ;

(6) destroys or moves any level mark or water gauge fixed by the authority of a public servant ;

shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees, or with both.

Cost of carrying out work to be recovered from convicted person.

32. Where any person is convicted of an offence under section 31 any Irrigation Officer may remove the obstruction or repair the damage or replace or repair the level mark or water gauge in respect of which the conviction has taken place and the cost thereof shall be recoverable from such person as arrears of public revenue.

Suit or application for the issue of an injunction.

33. Except where otherwise provided or where an order or decision is declared to be final, all claims in respect of anything done under this Act may be tried by the Civil Courts ; but no such Court shall entertain a suit or application for the issue of an injunction to restrain the exercise of any powers conferred by this Act upon the Government or any person or body of persons or any officer except where the result of the exercise of such power is solely to adjudicate the rights between private parties.

Power to arrest without warrant.

34. Any person in charge of an irrigation work or of the distribution of water from such work may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police station to be dealt with according to law, any person, who, within his view, commits any of the following offences :—

(1) wilfully injures or obstructs any irrigation work ; or

(2) without proper authority interferes with the supply or flow of water in or from any irrigation work.

Period of limitation.

35. The period of limitation for an appeal under this Act shall be sixty days from the date of the order appealed against.

PART VIII

MISCELLANEOUS

Protection of action taken under Act.

36. No suit or prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

Bar of action against Government or panchayat.

37. No action shall lie against the Government or a panchayat for not complying with the application of ryots for the construction, repair, improvement or restoration of any irrigation work.

Rate of cess fixed under this Act to be final and not to be questioned by any civil court.

38. The rate of cess fixed by the Government or the panchayat shall be final and shall not be liable to be questioned by any Civil Court.

39. (1) The Government may, by notification, constitute an Irrigation Board for any local area for regulating the distribution of water of any irrigation work, for keeping the irrigation work or any part thereof in repair, and for such other purposes as may, from time to time, be prescribed by the Government by rules made under this Act. **Constitution of Irrigation Boards, their functions.**

(2) The Government may in like manner dissolve any Board constituted under sub-section (1).

40. The Government may, by notification, authorise any person to exercise any one or more of the powers vested in the Collector by this Act and may in like manner withdraw such authority. **Delegation of power by Government**

[1][40A. (1) Whenever by local custom or for other good reason any work for purposes of agriculture should be done by the joint labour or cost of the proprietors of all the lands benefited by such work if any such proprietor fails or neglects to do his share of the work or contribute his share of the cost or labour it shall be lawful for the Collector, the Punja Special Officer or any officer specially authorised by the Government in this behalf on the application of a reasonable number of proprietors interested in such work or injured by such failure or neglect to investigate the matter and pass such order as he deems fit and he may by such order also direct the defaulting proprietor to execute any portion of the work or pay any portion of the cost of the work. If the order directs that the dafaulting proprietor shall execute a portion of the work it shall distinctly specify the portion of the work to be executed, the time within which it should be done and the estimated cost of such work. On the defaulting proprietor refusing or failing to execute the work within the time prescribed in the order the cost of the work may be recovered from such defaulter as arrears of land revenue and the work executed under the orders of the Collector, the Punja Special Officer or such officer specially authorised as aforesaid. **Procedure on failure to contribution cost or labour for work to be done by joint labour**

(2) Notwithstanding anything contained in sub-section (1) it shall be lawful for any of the proprietors to do the work or to contribute the cost or labour which the defaulting proprietor or proprietors should have done or contributed and in case he has so done or contributed after giving notice to the defaulting proprietor or proprietors he may apply to the Collector, the Punja Special Officer or any officer specially authorised by the Government in this behalf to order the defaulting proprietor or proprietors to compensate him for the reasonable cost or labour incurred by

and make such other investigations as he thinks necessary and order the defaulting proprietor or proprietors to pay a sum of money as would be in the opinion of the Collector, the Punja Special Officer or such officer specially authorised as aforesaid, sufficient compensation for such reasonable cost or labour.

[1] Inserted by Kerala Act XVI of 1957.

(3) (*a*) Any aggrieved party may appeal to the Government or to any officer, specially authorised by the Government in this behalf by notification in the Gazette against any order passed by the Collector, the Punja Special Officer or the officer specially authorised under sub-section (1) or sub-section (2), provided that such appeal is preferred within such time as may be prescribed by the Government, and the Government or such other officer, as the case may be, may thereupon pass such orders as they or he think or thinks are just and reasonable after giving notice to the opposite party and hearing him if he appears.

(*b*) It shall be lawful for the Government to revise any order of the Collector, the Punja Special Officer or the officer specially authorised, made under this section and pass such orders as are in their opinion just and reasonable.

(4) Any sum of money ordered to be paid under the provisions of this section may also be recovered from the defaulting proprietor as arrears of land revenue and the amount so recovered paid to the party entitled to it.

Illustration.—The putting up of ring bunds or draining of water in punja padams in Kuttanad or Kole lands in Trichur taluk are works contemplated in this section.]

Liability to pay cess.

41. Notwithstanding anything to the contrary contained in any law for the time being in force or in any contract the liability to pay the cess levied by the Government or a panchayat under this Act in respect of any land shall be on the person in actual occupation or possession of such land at the time such cess or any instalment thereof falls due and the amount so due shall be a charge on the interest of such person in the said land and it shall be recoverable from such person as an arrear of land revenue.

Power to make rules.

42. (1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules for—

(*a*) the delegation of their powers to the Board of Revenue, Collectors or other authorities ;

(*b*) the provision of suh appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated ;

(*c*) specifying the area benefited by an irrigation work and the extent of the benefit ;

(*d*) the manner of estimating the gross produce and prices under section 18 ;

(*e*) the proceeding of any officer who under the provisions of this Act is required or empowered to take action in any matter ;

(f) the cases in which and the officers to whom and the conditions subject to which orders and decisions given under any provisions of this Act shall be appealable,

(g) the persons by whom the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done,

(h) the number of elected and nominated members for each board, the term of office of the members of the board, the qualification and registration of electors, the time and mode of election and any other matter connected with election, the dissolution or supersession of the boards and the consequences of such dissolution or supersession, the powers and duties of the board, the conduct of business at meetings of the board, the appointment and punishment of the servants of the board and the relation between two or more boards under section 39, and

(i) all matters expressly required or allowed by this Act to be prescribed

(3) All rules made under this section shall be published in the Gazette

(1) The Travancore Irrigation Act, III of 1072 and the Cochin Irrigation Act, VIII of 1111 are hereby repealed Repeals and savings

(2) Notwithstanding such repeal, any cess in respect of the period from the 1st day of April, 1950 until the date
due on any land benefited
e recoverable at the rate spe-
tion 15 which is applicable
to the appropriate category of land and the cess so recoverable shall be deemed to be an arrear of cess due within the meaning of this Act

(3) If any person who has paid before the commencement of this Act, for any part of the period specified in sub section (2), any amount by way of cess in respect of any land benefited by any lift irrigation work in excess of the amount recoverable from him under sub section (2) continues to hold that land, he shall be entitled to have the excess adjusted towards, any cess payable by him after such commencement in respect of that land under this Act

(3) (*a*) Any aggrieved party may appeal to the Government or to any officer, specially authorised by the Government in this behalf by notification in the Gazette against any order passed by the Collector, the Punja Special Officer or the officer specially authorised under sub-section (1) or sub-section (2), provided that such appeal is preferred within such time as may be prescribed by the Government, and the Government or such other officer, as the case may be, may thereupon pass such orders as they or he think or thinks are just and reasonable after giving notice to the opposite party and hearing him if he appears.

(*b*) It shall be lawful for the Government to revise any order of the Collector, the Punja Special Officer or the officer specially authorised, made under this section and pass such orders as are in their opinion just and reasonable.

(4) Any sum of money ordered to be paid under the provisions of this section may also be recovered from the defaulting proprietor as arrears of land revenue and the amount so recovered paid to the party entitled to it.

Illustration.—The putting up of ring bunds or draining of water in punja padams in Kuttanad or Kole lands in Trichur taluk are works contemplated in this section.]

Liability to pay cess.

41. Notwithstanding anything to the contrary contained in any law for the time being in force or in any contract the liability to pay the cess levied by the Government or a panchayat under this Act in respect of any land shall be on the person in actual occupation or possession of such land at the time such cess or any instalment thereof falls due and the amount so due shall be a charge on the interest of such person in the said land and it shall be recoverable from such person as an arrear of land revenue.

Power to make rules.

42. (1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules for—

(*a*) the delegation of their powers to the Board of Revenue, Collectors or other authorities ;

(*b*) the provision of suh appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated ;

(*c*) specifying the area benefited by an irrigation work and the extent of the benefit ;

(*d*) the manner of estimating the gross produce and prices under section 18 ;

(*e*) the proceeding of any officer who under the provisions of this Act is required or empowered to take action in any matter ;

(*f*) the cases in which and the officers to whom and the conditions subject to which orders and decisions given under any provisions of this Act shall be appealable ,

(*g*) the persons by whom the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done,

(*h*) the number of elected and nominated members for each board, the term of office of the members of the board, the qualification and registration of electors, the time and mode of election and any other matter connected with election, the dissolution or supersession of the boards and the consequences of such dissolution or supersession, the powers and duties of the board, the conduct of business at meetings of the board, the appointment and punishment of the servants of the board and the relation between two or more boards under section 39 , and

(*i*) all matters expressly required or allowed by this Act to be prescribed

(3) All rules made under this section shall be published in the Gazette

(1) The Travancore Irrigation Act, III of 1072 and the Cochin Irrigation Act, VIII of 1111 are hereby repealed Repeals and savings

(2) Notwithstanding such repeal, any cess in respect of the period from the 1st day of April, 1950 until the date of commencement of this Act, due on any land benefited by a lift
cified in
to the a
able shall be deemed to be an arrear of cess due within the meaning of this Act

(3) If any person who has paid before the commencement of this Act, for any part of the period specified in sub section (2), any amount by way of cess in respect of any land benefited by any lift irrigation work in excess of the amount recoverable from him under sub section (2) continues to hold that land, he shall be entitled to have the excess adjusted towards, any cess payable by him after such commencement in respect of that land under this Act

THE [1][MADHYA PRADESH] IRRIGATION ACT, 1931

[CENTRAL PROVINCES ACT III OF 1931]*

[2]"CHAPTER VI-A

BETTERMENT CONTRIBUTION.

Definition of 'new canal'.

58-A. For the purposes of this Chapter the expression 'new canal' means—

(i) a canal, the construction of which has been undertaken on or after the 1st April 1951, and

(ii) such existing canal, the improvement or extension of which has been undertaken on or after the said date,

and which has been notified by the State Government as a new canal.

Meaning of the term 'benefited'.

58-B. Land is said to be 'benefited' by a new canal when it may be irrigated from that canal by the flow of water under gravity and without the need of lifting or pumping the water :

Provided that in relation to a new canal provided by improving or extending an existing canal, the area which was being irrigated already by such existing canal shall not be deemed to be benefited.

Levy of betterment contribution.

58-C. (1) In any area in which a new canal has been provided every permanent holder of land, whose land is benefited by such canal shall be liable to pay to the State Government annually in respect of such land betterment contribution at the rate to be determined in accordance with the following formula, namely;—

$$Z = \frac{X}{Y \times 100} \times \frac{3}{1}$$ For the first five annual instalments.

$$Z = \frac{X}{Y \times 100} \times \frac{9}{2}$$ For the next ten annual instalments.

X—Cost of construction, improvement or extension of new canal. [3][***]

Y—Acreage of area benefited by new canal.

Z—Rate of betterment contribution per acre per year.

NOTE.—In the event of a fraction below ·5, the fraction shall be neglected, and if the fraction be ·5 or more the amount shall be rounded to the next full integer.

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*This Act also applies to Vidarbha region of erstwhile Bombay State.

1 Subistituted by Madhya Pradesh Act, 23 of 1958.

2 This chapter was inserted by Madhya Pradesh Act VII of 1956 (*Section* 2).

3 Omitted by Madhya Pradesh Act VII of 1960.

(2) Such betterment contribution shall be payable consecutively for fifteen years excluding the years in which recovery thereof may be postponed by the State Government in accordance with section 58-I.

(3) Arrears of instalment of betterment contribution shall bear intere t at the rate of 6 per cent per annum

Provided that where the recovery of any instalment is postponed under section 58-I, such instalment shall not be deemed to be in arrears for purposes of this sub-section for the period during which the recovery thereof remains postponed:

Provided further that if the amount of any instalment in arrears is paid within a month from the date of default, then the interest on such amount for the period between the date of default and the date of payment shall be remitted

58 D. Whenever the State Government proposes to levy betterment contribution on the land liable to pay such contribution it shall issue a notification— Notification by State Government

(i) specifying the boundaries of the area benefited by the new canal in relation to which it is proposed to recover betterment contribution,

(ii) . . .

. . . .

be seen ;

(iii) appointing an officer (hereinafter referred to as the Authorised Officer) who shall enquire into and determine the amount of betterment contribution payable by each permanent holder , and

(iv) . .

. . . .

. . . .

objects to the levy of betterment contribution or be the inclusion of any land within the benefited area or to the correctness of any particulars regarding his holding to present to the Authorised Officer a written objection on or before such date stating the nature of his objection and the relief sought by him.

58 E. The Authorised Officer shall, as soon as may be, after the issue of the notification cause to be published in the regional language of the benefited area a notice of the issue of such notification by beat of drum and also by affixing copies of the notice at conspicuous places in all villages in the benefited area specified in the notification issued under section 58-D Such notice shall also state the time and place at which the Authorised Officer shall enquire objections preferred under section 58-D Proclamation by Authorised Officer.

58 F. The Authorised Officer shall, a
in the notice under section 58-E, make su
objections p eferred under section 58-D
cessary and pass such orders thereon

THE [1][MADHYA PRADESH] IRRIGATION ACT, 1931

[CENTRAL PROVINCES ACT III OF 1931]*

[2]"CHAPTER VI-A

BETTERMENT CONTRIBUTION.

Definition of 'new canal'. 58-A. For the purposes of this Chapter the expression 'new canal' means—

(i) a canal, the construction of which has been undertaken on or after the 1st April 1951, and

(ii) such existing canal, the improvement or extension of which has been undertaken on or after the said date,

and which has been notified by the State Government as a new canal.

Meaning of the term 'benefited'. 58-B. Land is said to be 'benefited' by a new canal when it may be irrigated from that canal by the flow of water under gravity and without the need of lifting or pumping the water :

Provided that in relation to a new canal provided by improving or extending an existing canal, the area which was being irrigated already by such existing canal shall not be deemed to be benefited.

Levy of betterment contribution. 58-C. (1) In any area in which a new canal has been provided every permanent holder of land, whose land is benefited by such canal shall be liable to pay to the State Government annually in respect of such land betterment contribution at the rate to be determined in accordance with the following formula, namely;—

$$Z = \frac{X}{Y \times 100} \times \frac{3}{1}$$ For the first five annual instalments.

$$Z = \frac{X}{Y \times 100} \times \frac{9}{2}$$ For the next ten annual instalments.

X—Cost of construction, improvement or extension of new canal. [3][***]

Y—Acreage of area benefited by new canal.

Z—Rate of betterment contribution per acre per year.

NOTE.—In the event of a fraction below ·5, the fraction shall be neglected, and if the fraction be ·5 or more the amount shall be rounded to the next full integer.

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*This Act also applies to Vidarbha region of erstwhile Bombay State.

[1] Subistituted by Madhya Pradesh Act, 23 of 1958.

[2] This chapter was inserted by Madhya Pradesh Act VII of 1956 (*Section* 2).

[3] Omitted by Madhya Pradesh Act VII of 1960.

(2) Such betterment contribution shall be payable consecutively for fifteen years excluding the years in which recovery thereof may be postponed by the State Government in accordance with section 58 I

(3) Arrears of instalment of betterment contribution shall bear interest at the rate of 6 per cent per annum

Provided that where the recovery of any instalment is postponed under section 58 I, such instalment shall not be deemed to be in arrears for purposes of this sub section for the period during which the recovery thereof remains postponed

Provided further that if the amount of any instalment in arrears is paid within a month from the date of default, then the interest on such amount for the period between the date of default and the date of payment shall be remitted

58 D. Whenever the State Government proposes to levy betterment contribution on the land liable to pay such contribution it shall issue a notification— Notification by State Government

(i) *specifying the boundaries of the area benefited by the* new canal in relation to which it is proposed to recover betterment contribution,

(ii) [illegible] be seen ,

(iii) appointing an officer (hereinafter referred to as the Authorised Officer) who shall enquire into and determine the amount of betterment contribution payable by each permanent *holder* , *and*

(iv) specifying a date not less than two *months from the* date of the publication of such notification and re- [illegible] *his holding to present to* the Authorised Officer a written objection on or before such date stating the nature of his objection and the relief sought by him

58 E. The Authorised Officer shall, as soon as may be, after the issue of the notification cause to be published in the regional language of the benefited area a notice of the issue of such notification by beat of drum and also by affixing copies of the notice at conspicuous places in all villages in the benefited area specified in the notification issued under section 58 D Such *notice* shall also state the time and place at which the Authorised Officer shall enquire into the objections preferred under section 58 D Proclamation by Authorised Officer

58-F. The Authorised Officer shall, at the place stated in the notice under section 58-E, make such inquiry into the objections preferred under section 58 D as may appear necessary and pass such orders thereon as he may think fit Inquiry by Authorised Officer

Power of Authorised Officer.

58-G. For the purposes of the inquiry under section 58-F, the Authorised Officer shall be deemed to be a Revenue Officer of the grade of an Assistant Commissioner, shall exercise the powers conferred on such Revenue Officer and follow the procedure for making inquiries laid down in the Madhya Pradesh Land Revenue Code, 1954. II of 1955.

Determination and announcement of rate of betterment contribution.

58-H. (1) After the objections, if any, preferred under section 58-D have been disposed of, the Authorised Officer shall determine the total area of the land benefited by the new canal and in accordance with the formula specified in section 58-C calculate the rate of betterment contribution per acre per year in respect of the first five years as well as the next ten years and appoint a date for making the announcement under sub-section (2) which shall be made widely known throughout the benefited area.

(2) On the date appointed under sub-section (1) the Authorised Officer shall announce—

(*i*) the instalment of betterment contribution payable per year by each permanent holder in respect of the land held by him in the benefited area for the first five years as well as for the next ten years; and

(*ii*) the date with effect from which the recovery of betterment contribution shall be commenced.

(3) On the date appointed under sub-section (1) the Authorised Officer shall also keep ready a statement in duplicate in such form as may be prescribed by rules in respect of each permanent holder holding land in the benefited area showing therein the amount of the yearly instalment payable by him during the first five years as well as the next ten years. Every permanent holder who appears before the Authorised Officer on the date appointed under sub-section (1) shall be supplied with a duplicate copy of the statement relating to him and in the case of permanent holders who fail to appear on that date such copies shall be sent to them by registered post.

Suspension of payment of instalment.

58-I. When the total land revenue or rent, as the case may be, payable by the permanent holder in respect of any land for which he is liable to pay betterment contribution is suspended in any year the State Government may, notwithstanding anything to the contrary contained in this Chapter or rules made thereunder, postpone for such period as it thinks fit the recovery of any instalment of betterment contribution.

Betterment contribution to be canal revenue.

58-J. The betterment contribution payable under this Chapter shall be deemed to becanal revenue within the meanning of Chapter VII.

Power to make rules.

58-K. Rules may be made for the purpose of carrying out the purposes of this Chapter but in the absence of any rules so made the rules framed under section 63 shall, so far as may be, apply in this behalf".

Remarks of doubt

3. For removal of doubt it is hereby declared that the amendments made by section 2 shall also extend to Berar.

THE MADRAS IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) ACT, 1955*

[MADRAS ACT NO III OF 1955]

An Act to provide for the Levy of Betterment Contribution on certain lands in the State of Madras

WHEREAS it is expedient to provide for the levy of betterment contribution on certain lands in the State of Madras

BE it enacted in the Sixth Year of the Republic of India as follows —

Short title and extent

1. (1) This Act may be called the Madras Irrigation (Levy of Betterment Contribution) Act, 1955

(2) It extends to the whole of the State of Madras

Definitions

2. In this Act, unless there is anything repugnant in the subject or context—

(1) 'contribution' means the betterment contribution referred to in section 3,

(2) 'drainage work' includes—

(a) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with or auxiliary to such channels,

(b) escape channels from an irrigation work,

(c) dams, weirs, embankments, sluices and groynes;

(d) all works for the protection of lands from floods or from erosion, which are owned or controlled by the Government, or which are maintained by them otherwise than by an assignment of land or land revenue made, confirmed, or recognized by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person, but does not include works for the removal of sewage,

(3) 'Government' *means the State Government*,

(4) 'irrigation work' includes—

(a) all canals, channels, tanks, wells, reservoirs, ponds, spring ponds and *madugus* used for the supply or storage of water, and all works, embankments and structures (other than escape channels) connected therewith or auxiliary thereto, which are owned or controlled by the Government or which

*This Act also applies to Malabar region of Kerala State

are maintained by them otherwise than by an assignment of land or land revenue made, confirmed or recognized by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person;

(*b*) all such lakes and other natural collections of water or parts thereof as are situated on lands which are the property of Government;

(*c*) all rivers and natural streams or parts thereof;

(5) 'landholder' in relation to any land means the person liable to pay the public revenue due on the land :

[1][Provided that in respect of any land comprised in the holding of a *kanamdar* or a customary *verumpattamdar* in the territory to which the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), extends, the *kanamdar* or the customary *verumpattamdar*. as the case may be, shall be deemed to be the landholder in respect of such land;]

(6) 'notification' means a notification published in the Fort St. George Gazette ;

(7) 'prescribed' means prescribed by rules made under this Act;

(8) 'work' means an irrigation or drainage work.

Levy of betterment contribution.

3. The Government shall be entitled to levy a betterment contribution, in accordance with the provisions of this Act, from the landholder of any land which, in their opinion, is benefited by the construction, expansion or alteration by the Government whether after the commencement of this Act, or at any time before such commencement but not earlier than the 1st January 1947, of any work (including the installation by them of a pumping set), the cost of which exceeds twenty-five thousand rupees.

Explanation I.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed provided such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land.

Explanation II.—A land shall not be deemed to be benefited merely by reason of the maintenance of an existing work wholly or partly at the expense of the Government.

Amount of betterment contribution.

4. (1) The lands benefited by the construction, expansion or alteration of any work shall be divided into suitable classes by the Government and the annual increase in the gross produce of each class of lands shall be estimated :

Provided that all lands which are of the same *taram* and which, judged by their commandability, are so situated as to

[1]Substituted by Madras A.O. 1957 (w. e. f. 1-11-1956).

derive the same amount of benefit from the work shall be placed in the same class

Provided further that the estimate shall be made with reference to the average of the prices prevailing, in the case of a work whose construction expansion or alteration was completed before the commencement of this Act, during the three years immediately preceding such commencement and, in the case of a work whose construction, expansion or alteration was completed after the commencement of this Act, during the three years immediately preceding such completion

Provided also that the average aforesaid shall not exceed three times the price which prevailed in August 1939

(2) Ten times the annual increase in the gross produc estimated under sub section (1) shall be deemed to be the increase in the capital value of each class of lands, and the contribution payable in respect of such class of lands shall be one half of the difference between the said increase in the capital value and the cost (estimated in the prescribed manner) of making the lands fit for advantageous irrigation under the work

Provided that in the case of lands which were originally under dry *cultivation and which, with a view to derive* benefit from the work were brought under wet cultivation, a sum representing the difference between the cost of wet cultivation and the cost of dry cultivation as determined in the prescribed manner shall be deducted from the increase in gross produce for the purpose of calculating the increase in capital value of those lands

(3) The contribution payable in respect of each class of lands expressed in terms of rate per acre shall be notified in the District Gazette and in such other manner, if any, as may be prescribed

Provided that the officer authorised in that behalf shall, before determining the contribution under the foregoing provisions of this section, publish his proposals in the prescribed manner and shall consider suggestions and objections received within the time allowed

such appeal shall be notified in the prescribed manner

(4) Decisions with respect to contribution notified under sub section (3) shall, subject to the right of appeal provided in the said sub section be final, shall be binding on all persons having interest in the lands and shall not be liable to be questioned in a Court of Law

(5) At the end of every four years from the which the contribution is finally determined under (3) any future instalment of such contribution

[illegible] on the [illegible] proportion that the average of the [illegible] four years bears to the [illegible] on the [illegible] of which the [illegible].

[illegible] 5. [illegible] payable under this Act in [illegible] of [illegible] to be paid [illegible] due upon the [illegible] and the buildings [illegible] occupied by the [illegible] upon the [illegible] of the contribution. [illegible] the contribution [illegible] the due date the amount [illegible] shall be deemed to be [illegible] the Madras Revenue Recovery Act, [illegible] the Madras City Land Revenue Act, [illegible] the Madras City Land Revenue Amendment Act, they shall apply to the recovery [illegible] apply to the recovery of the [illegible].

Madras Act II of 1864. Central Act XII of 185[illegible]. Madras Act VI of 185[illegible].

[illegible] 6. [illegible] payable under this [illegible] thereof [illegible] by an officer [illegible] the Government in this behalf being served on the [illegible]:

Provided that no [illegible] shall be served until the [illegible] after the date of completion of the construction, expansion or alteration of the work:

Provided further that where, before the commencement of this Act, two years or more have elapsed from the date of completion of the construction, expansion or alteration of the work, such notice may be served at any time after such commencement.

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the landholder, who has an interest in the land or on a successor-in-interest of the landholder or in respect of any instalment of the contribution.

(3) For the purpose of this section and section 4, the construction, expansion or alteration of a 'work' shall be deemed to be completed on the date of cessation of all work connected with its construction, expansion or alteration or on the date when the work is ready to be put in actual operation, whichever is later.

Mode of payment of contribution. 7. (1) The contribution payable by a landholder shall be paid by him in twenty annual instalments:

Provided that he shall be entitled to pay the entire contribution with a rebate of twenty per cent within a period of two years from the date on which he becomes liable to pay the contribution.

(2) Arrears of instalments of the contribution shall bear interest at the rate of six per cent per annum and such interest shall be recoverable as arrears of land revenue

8 If the Government accept any money from any person for the construction, expansion or alteration of any work and such person becomes liable to pay contribution in respect of any land benefited by such construction, expansion, or alteration the sum accepted from him shall be credited towards the contribution payable by him — Rebate in certain cases

9 Any person having interest in a land may, notwithstanding that he is not the landholder of such land, pay the contribution payable by the landholder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the landholder becomes liable to pay the contribution, be entitled to a rebate of twenty per cent — Payment of contribution by person having interest in land

10. Where the landholder (not being in the territory to which the Malabar Tenancy Act, 1929 extends, a kanamdar or a customary verumpattamdar, [1][**] liable to pay contribution under this Act is not the owner of the land or is — Right of reimbursement in respect of contribution

Madras Act XIV of 1930

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11. Where a landholder whose case is not covered by section 10 and who has paid an instalment of contribution under this Act is not the occupier of the land, he shall, in the absence of a contract to the contrary, be entitled to recover the amount of such instalment from the person who is in actual occupation of the land during the year in which the said instalment is payable — Apportionment of contribution

Provided that where such person is a tenant, the landholder shall be entitled to recover from the tenant the instalment of contribution referred to in this section only if the tenant is liable under any law or custom of the locality to deliver to the landholder a share of the produce and such share has not been altered subsequent to the completion of the work by agreement between the parties, and the amount that can be recovered from such a tenant shall bear to the total amount of the instalment the same proportion as the tenants share of the produce bears to the total produce of the land

Provided further that, where the landholder has paid the entire contribution with a rebate under the proviso to sub-section (1) of section 7, a twentieth part of the sum actually paid shall be deemed to be the instalment of the contribution payable during every year during which an instalment of the contribution would have been payable had the entire contribution not been so paid

1 Omitted by Madras A O 1957 (w.e.f 1-11-1956)

Exemption.

12. If, in the opinion of the Government, the enforcement or strict enforcement of all or any of the provisions of this Act will cause hardship in any case or cases, the Government may, by notification, setting out the ground therefor, exempt either permanently or for a specified period such case or cases from all or any of the provisions of this Act, subject to such conditions, if any, as the Government may deem fit to impose.

Power to make rules.

13. (1) The Government may, by notification, make rules to carry out the purposes of this Act and in particular—

(a) for the delegation of their powers to the Board of Revenue, Collectors or other authorities;

(b) for the provision of such appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated;

(c) for the manner of estimating the gross produce and prices under section 4;

(d) for all matters expressly required or allowed by this Act to be prescribed.

(2) All rules made under this section shall be published in the *Fort St. George Gazette* and upon such publication shall have effect as if enacted in this Act. The rules so made shall be placed on the table of the Legislative Assembly as soon as possible after they are published and shall be subject to such modifications, whether by way of repeal or amendment, as the Assembly may make within fourteen days during the session in which they are so laid.

Saving.

14. Nothing contained in this Act shall apply to the levy, determination, payment or recovery of betterment contribution from the landholders of lands which are benefited, or are capable of being benefited, by the construction, expansion or alteration of any work, if provision in that behalf is contained in any other law relating thereto and for the time being in force.

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) ACT, 1957

[MYSORE ACT No 28 OF 1957]

An Act to consolidate and amend the laws providing for the levy of betterment contribution and water rate in the State of Mysore.

WHEREAS it is expedient to consolidate and amend the laws relating to the levy of betterment contribution and water rate in the State of Mysore,

BE it enacted by the Mysore State Legislature in the Eighth year of the Republic of India as follows —

1. (1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 Short title and extent.

(2) It extends to the whole of the State of Mysore

(3) It shall come into force on such date as the Government may by a notification appoint

2. (1) In this Act, *unless the context otherwise requires* — Definitions.

(*a*) 'Collector' means the Collector or Deputy Commissioner of a District or such other officer not below the rank of a Deputy Collector or Assistant Commissioner as the Government may appoint to discharge the functions of the Collector or Deputy Commissioner under this Act,

(*b*) 'contribution' means the betterment contribution referred to in section 3,

(*c*) 'drainage work' includes—

(*i*) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with and auxiliary to such channels,

(*ii*) the escape channels from an irrigation work,

(*iii*) dams, weirs, embankments, sluices and groynes,

(*iv*) all works for the protection of lands from floods or from erosion, which are owned or controlled by the Government, but does not include works for the removal of sewage,

(*d*) 'Government' means the State Government,

(*e*) 'irrigation work' includes—

(*i*) all canals, channels, tanks, wells, reservoirs, anicuts, bandharas, ponds, spring ponds, kuntas, talaparigts and madugus used for the supply or storage of water, and all works, embankments and structures, installations, including the installation of a pumping set, supply and escape channels connected therewith or auxiliary thereto wh are owned or controlled by the Go

(*ii*) all such lakes and other natural collections of water or parts thereof as are situated on lands which are the property of the Government;

(*iii*) all natural waterways, rivers and streams or parts thereof;

(*f*) 'landholder' or 'holder' signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person or for a class of persons or for the public; and includes a mortgagee vested with a right to possession :

Provided that in respect of any land in the possession of a walawargadar, a kayamgenidar, a permanent tenant or a mulgeni tenant in the South Kanara District, such walawargadar, kayamgenidar, permanent tenant or mulgeni tenant, as the case may be, shall be deemed to be the landholder in respect of such land;

(*g*) 'notification' means a notification published in the Official Gazette;

(*h*) 'prescribed' means prescribed by rules made under this Act;

(*i*) 'work' means an irrigation or drainage work whether completed or not.

(2) The Mysore General Clauses Act, 1899 shall apply for the interpretation of this Act, as it applies for the interpretation of a Mysore Act. Mysore Act III of 1899.

Levy of betterment contribution.

3. The Government shall be entitled to levy a betterment contribution, in accordance with the provisions of this Act, from the landholder or holder of any land which, in its opinion, is benefited by the construction, restoration, expansion or alteration of any work by the Government, whether after the commencement of this Act or at any time before such commencement, but not earlier than—

(*i*) the first January 1944 in the Mysore Area;

(*ii*) the first January 1947 in the Madras Area;

(*iii*) the first August 1947 in the Hyderabad Area; and

(*iv*) the first January 1950 in the Bombay Area and the Coorg District.

Explanation I.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided such non-enjoyment is due solely to action or inaction on the part of that person or persons interested in such land.

Explanation II.—A land shall not be deemed to be benefited merely by reason of the execution of ordinary repairs, and maintenance of an existing work wholly or partly at the expense of Government.

Amount of betterment contribution

4. (1) Subject to such rules as may be prescribed, the Collector shall determine the contribution payable in respect of each of the lands mentioned in section 3, after taking into account the increase in its capital value as estimated in the prescribed manner

Provided that the contribution shall in no case exceed five hundred rupees per acre

(2) Before determining the contributions payable under sub-section (1), the Collector shall invite objections and suggestions, in such manner as may be prescribed, from the persons liable to pay the same and consider in the prescribed manner all objections and suggestions received from them

(3) Any landholder aggrieved by any determination made to the Collector under sub section (1) may, within the prescribed time appeal to the prescribed authority and the prescribed authority may pass such orders on the appeal as it thinks fit

(4) Any order passed by the prescribed authority on appeal preferred to it under sub-section (3), and subject to the orders aforesaid of the prescribed authority, the determination of the Collector under sub-section (1) shall be final and shall not be liable to be questioned in any Court of law

When contribution becomes payable

5. (1) Contribution shall become payable under this Act on a written notice of demand therefor issued by an officer authorised by the Government in this behalf being served on the landholder

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the landholder, who has an interest in the land or on a successor in interest of the landholder or in respect of any instalment of the contribution

Mode of payment of contribution

6. (1) The landholder of any land, in respect of which any contribution is payable, shall pay it in the manner prescribed either by surrendering to the Government a portion of his land the value whereof is equal to the amount of contribution, or in cash, or partly by surrendering land and partly in cash

(2) Where the landholder chooses to pay the whole or part of the contribution by surrendering land, the surrender shall be subject to the following conditions —

(a) the value of the land offered for surrender shall for the purpose of payment of contribution be determined by the Collector in the prescribed manner ,

(b) the owner of the land shall prove to the satisfaction of the Collector that such land is free from all encumbrances, the Collector shall notify the proposed surrender and invite objections in such manner and within such period as may be prescribed, if any objection is received and the Collector is

satisfied that the land is not free from encumbrance, he shall refuse to accept the surrender and shall recover the contribution in cash; if no objection is received and the Collector is satisfied that the land is free from encumbrance, he shall by order in writing accept the surrender and after such acceptance, the land shall vest in the Government free from all encumbrances and the Government may dispose of it in such manner as it deems fit:

Provided that the Collector may on the ground of inaccessibility or inconvenient location of the land or such other grounds as may be prescribed refuse to accept the surrender.

(3) The Government may by general or special order direct that in respect of any work, or class of cases the contribution shall be payable only in cash and not by surrendering land.

(4) Where the contribution is payable in cash, it shall be payable in such number of annual instalments not exceeding twenty and at such times as may be prescribed :

Provided that if, on or before the date on which the first instalment is payable, or at any subsequent date within a period of two years from that date, the owner pays the entire contribution, or the balance of contribution, as the case may be, he shall be entitled to a rebate of ten per cent of such contribution or balance of contribution, as the case may be :

Provided further that if the amount of contribution falls into arrears, interest shall be payable at the prescribed rate on the amount of such arrears.

Contribution recoverable as arrears of land revenue.

7. Contribution payable under this Act in respect of any land shall be deemed to be a revenue demand due upon the said land; and the land, its products and the building (owned by the landholder) standing upon the land, shall be deemed to be the security for the contribution. When any instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment shall be deemed to be an arrear of land revenue and the provisions of the law in force regulating the recovery of land revenue, shall apply to the recovery of the said arrear together with the interest due thereon, as it applies to the recovery of the land revenue due on that land.

Payment of contribution by persons having interest in land.

8. Any person having interest in a land may, notwithstanding that he is not the landholder of such land, pay the contribution payable by the holder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the landholder becomes liable to pay the contribution, be entitled to a rebate of ten per cent.

9. Where the landholder (not being in the South Kanara District a walawargadar, a kayamgenidar, a permanent tenant or a mulgeni tenant) liable to pay contribution under this Act is not the owner of the land or is a co owner of the land, nothing in this Act shall be deemed to affect his right to reimbursement from the owner or to recover proportionate part from the co owner, as the case may be

Right of reimburse ment in respect of contribution

10. (1) Whenever—

Levy of water rate

(*a*) water is made available by the Government for the use of any benefited land in respect of which betterment contribution is levied,

(*b*) water is supplied or used for purposes of irrigation from any work belonging to, or constructed by, or on behalf of the Government, and

(*c*) water from any such work, by direct flow or percolation or by indirect flow, percolation or drainage from or through adjoining land irrigates any land under cultivation or flows into a reservoir and thereafter, by direct flow or percolation or by indirect flow, percolation or drainage from or through adjoining land irrigates any land under cultivation and, in the opinion of the Collector such irrigation is beneficial to and sufficient for the requirements of crop on such land,

the Government shall be entitled to levy a separate charge for such water hereinafter referred to as water rate and the Government may prescribe the rates at which, the manner in which and the authority by which such water rates shall be fixed

Provided that no water rate shall be leviable under this Act in respect of water supplied or used for the irrigation of land which is classified and assessed as wet, unless the land be irrigated, whether voluntarily or involuntarily, and whether wholly or in part

(i) from any source hereinbefore mentioned, not being a source which has been assigned by the Revenue authorities as the source of irrigation of such land, or

(ii) from any source assigned in respect of such land otherwise than in accordance with a notification or order of the Government or of any authority subordinate to it, regulating or specifying the time, method and conditions of supply of water for the irrigation of such land from such source and the number of crops which may be irrigated on such land with such supply, free of separate charge

(2) For the avoidance of doubt, it is hereby declare[d] that water rate leviable under this Act is not a tax but is a charge for the water supplied or used for [irriga]tion of lands.

(3) The amount of water rate shall be recoverable in the same manner as arrears of land revenue due on the land.

Power to make rules.

11. (1) The Government may subject to the condition of previous publication, by notification make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the delegation of powers of the Government to such authority or authorities as may be notified;

(*b*) for the provision of such appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated; and

(*c*) for all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act shall be laid as soon as may be after they are made before the State Legislative Assembly while it is in session, for a total period of one month which may be comprised in one session or in two or more sessions and if before the expiry of that period, the State Legislative Assembly makes any modification in the rules or directs that any rule shall not have effect, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be.

Repeal and savings.

12. Chapter VI of the Mysore Irrigation Act, 1932; section 53 of the Mysore Land Revenue Code, 1888; section 55 of the Bombay Land Revenue Code, 1879; section 53 of the Hyderabad Land Revenue Act, 1317F.; sections 44, 48, 48A, 49, 50, 51, 52, 53, 54, 55, 56, 56A, 56B, 56C, 56D, 56E and 56F of the Bombay Irrigation Act, 1879; the Madras Irrigation (Levy of Betterment Contribution) Act, 1955; the Madras Irrigation Cess Act, 1865; the Hyderabad Irrigation (Betterment Contribution and Inclusion Fees) Act, 1952; and the Coorg Irrigation Cess Act, 1943 are hereby repealed :

Mysore Act I of 1932. Mysore Act IV of 1888. Bombay Act V of 1879. Hyderabad Act VIII of 1317 Fasli. Bombay Act VII of 1879. Madras Act III of 1955. Madras Act VII of 1865. Hyderabad Act V of 1952. Coorg Act IV of 1943.

Provided that such repeal shall not affect—

(*i*) the previous operation of the said provisions or anything duly done or suffered thereunder; or

(*ii*) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments; or

(*iii*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or forfeiture as aforesaid; and any such

investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such forfeiture may be imposed as if this Act had not been passed :

Provided further that the provisions of this Act relating to levy of betterment contribution shall not be applicable to lands in respect of which contribution or betterment charges have already been levied under any repealed enactment and such contribution or betterment charges shall continue to be collected as if this Act had not been passed:

Provided also that the water rate, water cess or irrigation cess levied in respect of any land under any repealed enactment shall continue to be levied until water rates are levied in accordance with the provisions of this Act

THE ORISSA BETTERMENT CHARGES ACT, 1955

[ORISSA ACT NO. 2 OF 1956]

An Act to provide for the levy of Betterment Charges on certain lands in the State of Orissa

WHEREAS it is expedient to impose a betterment levy on the lands to be benefited by the proposed canals under the Hirakud Dam Project;

IT is hereby enacted by the Legislature of the State of Orissa in the Sixth year of the Republic of India as follows:—

Short title, extent and commencement.

1.(1) This Act may be called the Orissa Betterment Charges Act, 1955.

(2) It extends to the districts of Sambalpur, Bolangir, Puri and Cuttack.

(3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) "Betterment charges" means the charges levied under section 3 on lands under irrigable command of the irrigation scheme of the Hirakud Dam Project;

(b) "Canal Officer" means an officer not below the rank of an Executive Engineer appointed as Canal Officer by the State Government, for the purposes of this Act;

(c) "Collector of Betterment Charges" means an officer not below the rank of a Collector appointed as such by the State Government under the Provisions of this Act;

(d) "Irrigation scheme of the Hirakud Dam Project", hereinafter referred to as the "Scheme" means all canals, branch canals, distributaries, minors, water-courses, embankments, structures, lift irrigation arrangements and similar other works and all other works incidental thereto under Hirakud Dam Project designed to ensure supply of water to irrigate lands and includes improvements to and extension of the existing canal system in the district of Cuttack;

(e) "Land" means any land that is fit for agricultural purposes or that may be capable of being rendered fit for such purposes on the completion of the scheme ;

(f) "Lands under irrigable command" means such lands as are irrigated or capable of being irrigated under the scheme;

(g) "Prescribed" means prescribed by rules made under this Act;

(h) "Revenue Officer" means an officer of the State Administrative Service appointed as a Revenue Officer for purposes of this Act,

(i) "Sambalpur Zone" and the "Delta Zone" respectively mean the areas comprised within the districts of Sambalpur and Bolangir and the districts of Cuttack and Puri as at present constituted,

(j) the expressions "Landlord", "Tenant", "Occupancy tenants" and "Service tenants" in relation to any land shall have the same meaning as those expressions have in the law relating to land tenures in force immediately before the commencement of this Act in the area in which such land is situate

Explanation—For the purposes of this Act a Ruler of an Indian State or any of his relations shall be deemed to be an occupancy tenant with respect to lands of which such Ruler or his relation as the case may be is the owner and which is in his possession either by himself or through his temporary lessees, and the expression "Ruler of an Indian State" shall have the same meaning as has been assigned to it in the Constitution

(k) all references to the districts of Cuttack, Puri, Sambalpur and Bolangir shall be read and construed respectively as references to the areas known by the said names immediately before the date of commencement of this Act

Betterment charges leviable

3. (1) The State Government shall be entitled to levy a betterment charge on every land under the irrigable command in accordance with the provisions of this Act

The lands under irrigable command shall be divided into suitable classes by the Government and the annual increase in the gross produce of each class of lands shall be estimated

Provided that all lands which according to the principle of classification adopted in settlements, are of the same class and which judged by their commandability are so situated as to derive the same amount of benefit from the scheme shall be placed in the same class

Provided further that the estimate shall be made with reference to the average of the prices prevailing during the three agricultural years immediately preceding the agricultural year in which water is first supplied for irrigation in a block under estimation

(2) Ten times the annual increase in the gross produce estimated under sub-section (1) shall be deemed to be the increase in the capital value of each class of lands, and the betterment charges payable in respect of such class of shall be one half of the difference between the said

in the capital value and the cost estimated in the prescribed manner of making the lands fit for advantageous irrigation under the scheme :

Provided that in the case of lands which were originally under dry cultivation and which with a view to derive benefit from the scheme were brought under wet cultivation, a sum representing the difference between the cost of wet cultivation and the cost of dry cultivation as determined in the prescribed manner shall be deducted from the increase in gross produce for the purpose of calculating the increase in capital value of those lands.

Explanation.—For the purpose of this Act the cost of wet cultivation shall be deemed to include the water rate.

(3) As and when any block in the irrigable command is brought under irrigation, the State Government shall direct the Collector of Betterment Charges to determine the betterment charges in respect of each class of lands in the block.

(4) The Collector of Betterment Charges after due enquiry in the prescribed manner shall publish his proposals in regard to the betterment charges proposed for the various classes of lands in the prescribed manner and shall consider in the manner prescribed the suggestions and objections received within the time allowed, and finally publish his award on the rate of betterment charges leviable on each class of lands in the block of lands under irrigable command in the prescribed manner. The Collector shall while proceeding under this sub-section be assisted by an Agricultural expert to be nominated by the State Government.

(5) An appeal shall lie to the prescribed authority in the prescribed manner and within a prescribed time from the award of the Collector of Betterment Charges under sub-section (4). The decision in such appeal shall be notified in the prescribed manner.

(6) The award with respect to betterment charges notified under sub-section (4) shall, subject to the right of appeal provided in sub-section (5), be final and shall be binding on all persons having interest in the lands and shall not be liable to be questioned in a court of law.

Schedule of irrigable lands under command and betterment char-

4. The State Government shall, after the notification declaring the classes of land under sub-section (1) of section 3 and after any village in the irrigable command is brought under irrigation, direct one or more Revenue Officers appointed for the purpose to prepare a Schedule for such village or villages in consultation with a Canal Officer showing the lands under the irrigable command of the scheme and the class of lands for betterment charges under which each plot of land is to be classified and the persons from whom the charges are recoverable :

Provided that the State Government may define the jurisdiction, powers and duties of each such Revenue Officer or Canal Officer as the case may be for the purposes of this Act.

5. (1) The Schedule prepared under section 4 shall be published in the official Gazette and in such other manner as may be prescribed

Publication of scheme and notice to owners and persons interested

(2) The Revenue Officer concerned shall give notice to the persons known or believed to be owners of or interested in the lands under irrigable command of the scheme requiring them to appear before him either personally or by agent at a time and place therein mentioned to file their objections, if any, (*a*) to the inclusion of the lands in the Schedule as the lands under irrigable command or (*b*) to the classification of any plot of land for the levy of the betterment charges or (*c*) to the imposition and recovery of the betterment charges proposed on such lands from such persons or (*d*) to another entry contained in such Schedule

6. On the dates fixed in the notice under section 5 or on such other date to which the filing of objections may be adjourned, the officer concerned shall, after holding an enquiry in the prescribed manner and after hearing the objections, if any, filed by the persons in pursuance of such notice, make an award The award shall be published in the manner prescribed and shall specify—

Enquiry and award

(*a*) the lands under the irrigable command of the scheme,

(*b*) the classification of any plot of land for the levy of betterment charges,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the person or persons from whom the betterment charge is recoverable, and

(*e*) the date on which such betterment charges shall be leviable

Provided that the Revenue Officer while making the award shall always have due regard to the provisions contained in section 11

7. (1) Betterment charges in any area on the lands under irrigable command shall be payable on the 15th day of April of the year next after the one following the Kharif season in which irrigation facilities are first provided for the area from the scheme or two months after the date of the award under section 6 whichever is later. Persons liable to pay the charges shall pay the same in one lump sum or exercise in the prescribed manner their option of making payments in instalments

Instalments of betterment charges—betterment charges to be charged or land next to land revenue

(2) The number of such instalments and the manner of payment thereof shall be as follows —

(*a*) The first two instalments shall each be one-thirtieth of the charges, the balance being payable further instalments of one-fifteenth of each

(*b*) The first instalment shall fall due on the date on which the charges become first payable under sub-section (1) and each subsequent instalment shall become payable each year on the date one year after the due date of payment of the last preceding instalment.

(*c*) No interest shall be chargeable on any arrears of instalment; but interest at the rate of $4\frac{1}{4}$ per cent per annum shall be payable on the due date of payment of any instalment on the balance of the betterment charges remaining unpaid by the said date:

Provided that any one or more of such instalments may be paid in advance of the date on which the payment of such instalment falls due together with interest at the rate of $4\frac{1}{4}$ per cent per annum on the balance of the charges remaining unpaid by the date of such payment.

(3) Any sums lawfully due under this Act by way of betterment charges shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrear of land revenue.

(4) Notwithstanding anything contained in this section the State Government may allow the owner of the land on which betterment charges may be payable to relinquish the whole or any part of the land or deliver in exchange in favour of the State Government on such conditions as may be prescribed by rules:

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

Betterment charges on newly reclaimed land.

8. If any waste land, belonging to or at the disposal of the State Government under irrigable command is newly leased out for cultivation, betterment charge shall be recoverable from the lessee in the prescribed manner at the rate prevalent in the zone, anything in any of the other provisions of this Act to the contrary notwithstanding.

Remissions and suspensions.

9. If the State Government are satisfied,—

(1) that the crops on any land under the irrigable command are seriously damaged on account of floods, tempest or any other irresistible force, or

(2) that the land being water-logged or salt-affected has become unculturable, or

(3) that the land has been removed from the irrigable command of the scheme on account of short supply of water or such other cause, or

(4) that the agricultural industry has received a set-back on account of price-fall,

the State Government may, subject to such conditions as it may think fit, suspend the recovery of or remit in full or in part the betterment charges or any instalments thereof with respect to such land :

Provided that in cases coming under clause (3) where land has been permanently or for a considerable period removed from irrigable command the State Government shall deduct from the total amount of Betterment Charges payable by any person a sum representing his dues to the State Government on account of Betterment Charges in respect of such land

10. The betterment charges payable under this Act shall not affect any other rates or charges leviable under any other law. Any charges to be ...cted.

11. (1) Betterment charges shall be recoverable from the person or persons recorded as the occupancy tenants or service tenants of the land Persons ...ble to ... betterment charges.

Provided that where such tenant pays produce rent to his immediate landlord, recorded as such a portion of the betterment charges equivalent to the fraction which the produce rent taken by the landlord bears to the total produce each year shall be recoverable from such landlord

Provided further that a service tenant shall pay only 75 per cent of the betterment charges on the land, the other 25 per cent being payable by the person to whom the lands will revert on abolition of the service

Provided also that a person in actual cultivation of the land on the date of the award under section 6 as a tenant or sub-tenant under an occupancy tenant or service tenant on payment of produce rent and protected against eviction under any general or special law for the time being in force or any practice, custom or usage having the force of law, shall be liable to pay a part of the betterment charges in such proportion as the produce taken by such tenant or sub-tenant bears to the total produce of the land during the year last preceding the date of the award

Explanation—(i) "Recorded" in this section shall mean "recorded on the land records of the Collector of the district on the date of the award under section 6" or where an application for change of record is pending on that date in the proper court the record as corrected in the final orders on the application;

(ii) For the purposes of this section persons who are ...ecorded as tenants and whose rights are the same as those ...ccupancy tenants or service tenants shall be deemed ... be occupancy tenants or service tenants as the case may be.

(2) Notwithstanding anything in sub-section (1) and ...bject to any contract to the contrary where a tenant hold... any land on produce rent is evicted by his immediate ...dlord in pursuance of any law relating to land reforms ...under any other law for the time being in force such land... shall be liable, in addition to such other payment he may ... to make for such eviction, to pay to such tenant the ...on of the betterment charges paid by him prior to the ... of his eviction :

Provided that nothing in this sub-section shall apply if the eviction of the tenant has taken place on account of any default on the part of the tenant in complying with the provisions of any such law as aforesaid.

Application for transfer of liability.

12. (1) Any person liable to pay the betterment charges under section 11 may apply to the prescribed authority in the manner prescribed for a declaration that on the date the betterment charge was due or any part of the same was due on an instalment fixed under section 7, his right or interest in the land has passed on to some other person and that such other person may be made liable for the dues. Such authority after hearing in the prescribed manner the persons concerned may, if he finds that there has been a valid transfer, declare that such other person or persons shall be liable for the betterment charge or the balance thereof due on the said date.

Explanation.—For the purposes of this section—

(*i*) The rights and interest of a person shall be deemed to have passed on to his immediate landlord if such person ceases to hold or cultivate the land without there being a transfer of such right or interest to any other person.

(*ii*) Transfer shall include all transfers whether by act of parties or by operation of law or by virtue of any judgment, decree or order of any court or otherwise howsoever.

(2) The said authority may if he finds that any person liable to pay the betterment charge under section 11 is dead, hold an enquiry in the prescribed manner and determine the person or persons liable to discharge the liability as heirs and assigns of such persons; if after such enquiry the said authority finds that some other person should have been rightly recorded as the tenant or landlord as being liable to pay the betterment charges or part thereof, in the place of the deceased on the date the betterment charge or any part thereof, on an instalment fixed under section 7 had fallen due, the said authority shall after holding such further enquiry as may be prescribed and after giving the parties concerned an opportunity of being heard make a declaration accordingly.

(3) A declaration under sub-section (1) or sub-section (2) as the case may be shall have the effect of passing on the liability for payment of the betterment charges or balance thereof under section 11 to the person or persons so declared as being liable.

Protection of land against sale for arrears of betterment charges.

13. (1) Any person interested in the land on which betterment charge is payable, may pay up the dues in arrears to protect the land from sale for arrears of betterment charge and he may then apply to the Revenue Officer authorised by the State Government in that behalf to recover such amount for him from the persons liable to pay the same according to the extent of their respective liabilities.

(2) The Revenue Officer shall deal with the application for recovery under sub section (1) in the same manner as a plaint filed in a suit for recovery of money instituted in accordance with the Code of Civil Procedure, 1908 and the order passed on such application shall have the same force and effect as that of a decree for money passed by a Civil Court under the said Code

1908.

Appeals

14. Any person aggrieved by the award under section 6 or a declaration under sub section (1) or sub section (2) of section 12 or an order under section 13 may, within sixty days from the date of the award, declaration or order respectively, appeal to the Collector of Betterment Charges The appeal shall be disposed of in the prescribed manner.

Provided that in an appeal from an award under section 6 the rate of betterment charge fixed on a particular class of land shall not be called into question and may not be changed in the appeal

Revision by the Board of Revenue

15. (1) The Board of Revenue may on its own motion or on the application of an aggrieved person within the prescribed time call for and examine the record of any enquiry under section 6, sub sections (1) and (2) of section 12 and under secti[illegible]
14 for the
regularity [illegible]
modify or reverse the award, declaration or order or the decision of the Collector of Betterment Charges as the case may be

Provided that in relation to any enquiry under section 6 the rate of betterment charge fixed on a particular class of land in pursuance of section 3 shall not be modified or reversed or otherwise interfered with

Provided further that the betterment charges ordered to be paid by the Collector shall not be altered to the prejudice of any party unless the parties concerned have been given an opportunity of being heard

(2) Notwithstanding anything in sub section (1) the award, declaration, order or decision specified therein shall not be modified, reversed or otherwise interfered with after the expiry of a period of two years from the date of such award, declaration, order or decision as the case may be

Finality of orders.

16. An order passed by the Board of Revenue in revision under section 15 and subject to such order the decision of the Collector of Betterment Charges on appeal under section 14 and subject to the order of the Board of Revenue and the decision of the Collector of Betterment Charges, the award, declaration or order made under section 6, sub-sections (1) and (2) of section 12 and under section 13, shall be final.

17. No Civil Court shall have any ju[illegible] r to matter relating to anything done or to be [illegible]

Indemnity from loss.

18. Subject to section 9 no claim shall lie against the Government for compensation or for the refund of betterment charges on account of loss occasioned by any temporary failure or stoppage of water in a canal or by any cause beyond the control of the Government or by any repairs, alterations or additions made to the canal or by any measure taken for regulating the proper flow of water therein or for maintaining the established course of irrigation in case where the Canal Officer considers such action to be necessary.

Indemnity from legal proceedings.

19. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

Powers of Revenue and Canal Officer to summon persons, etc.

20. The Revenue Officer, Canal Officer or any other officer authorised by any of them or the authority prescribed in pursuance of section 12 shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath or affirmation,

(*b*) compelling the production of documents, and any proceeding under this Act before the Revenue Officer, Canal Officer or any other officer authorised by them shall be deemed to be 'judicial proceeding' within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code. XLV of 1860.

Powers to make rules.

21. (1) The State Government may by notification in the official Gazette make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the fixation of time for preparation of Schedule under section 4;

(*b*) the form in which the Schedule under section 4 will be prepared;

(*c*) the method of publication of the Schedule prepared under section 4 and of the award made under section 6;

(*d*) the manner of service of notice under section 4;

(*e*) the manner of holding enquiries under section 6 and 12, and the conduct of proceedings under section 13;

(*f*) the form of the award made under section 6;

(*g*) the procedure relating to appeals under section 14 and the mode of disposal of such appeals;

(*h*) the authority to conduct proceedings under section 12; and

(*i*) any other matter requiring to be or which may be prescribed under this Act.

22. If any diffi sions of this Act, may require, by o this Act or the ru them necessary for *Power to remove difficulties.*

THE PUNJAB BETTERMENT CHARGES AND ACREAGE RATES ACT, 1952

[PUNJAB ACT No. II OF 1953]

An Act to provide for the levy of betterment charges and acreage rates on certain lands in the State of Punjab.

IT is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Punjab Betterment Charges and Acreage Rates Act, 1952.

(2) [1][It shall extend to the territories which immediately before the 1st November, 1956, were comprised in the States of Punjab and Patiala and East Punjab States Union.]

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires:—

(*a*) "acreage rates" means the charges levied under section 6 on lands included in an irrigation scheme;

(*b*) "betterment charges" means the charges levied under section 4 on lands included in an irrigation scheme;

(*c*) "canal" includes—

(*i*) all parts of a river, stream, lake or a natural collection of water or natural drainage channel to which the provisions of Part II of the Northern India Canal and Drainage Act, 1873, apply; VIII of 187

(*ii*) all canals, channels, reservoirs, wells, tubewells and lift irrigation arrangements constructed, maintained or controlled by the Government for the supply or storage of water ;

(*iii*) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs, wells, tube-wells or lift irrigation arrangements;

(*iv*) all watercourses, that is to say, all channels which are supplied with water from a canal but which are not maintained at the cost of the Government, and all subsidiary works belonging to any such channels ;

(*d*) "cost of an irrigation scheme" means the total financial liability accruing from the loan contracted or the investment made, the interest thereon, the cost of maintenance and operation of the scheme or of any extension thereof or of an extension as a result thereof, with reference to the period during which the said liability has to be discharged ;

(*e*) "Government" means the Government of the State of Punjab;

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[1] Substituted by section 2 of Punjab Act 12 of 1958.

(*f*) "irrigation scheme" means any such scheme as is referred to in section 3,

of 1887 (*g*) "landowner" has the meaning assigned to it in the Punjab Land Revenue Act, 1887,

(*h*) "prescribed" means prescribed by rules made under this Act,

f 1887 (*i*) the expressions "land", "tenant" and "occupancy tenant" have the meanings respectively assigned to them in the Punjab Tenancy Act, 1887,

f 1873 ( ) the expresions "Canal Officer" and "Divisional Canal Officer" have the meanings respectively assigned to them in the Northern India Canal and Drainage Act, 1873,

f 1873 [1][(*jj*) "matured area" means such area of land, included in the irrigation scheme, which is subject to payment of occupiers' rate under section 36 of the Northern India Canal and Drainage Act, 1873, during any harvest.]

3 Where any scheme has come or comes into operation after the 15th day of August 1947, for any one or more of the following purposes, namely — *Irrigation schemes and notification of proposal to levy betterment charges*

(*i*) the irrigation of lands from any existing or projected canal,

(*ii*) the extension of irrigation of land situate within the approved irrigation boundary of an existing canal,

(*iii*) the improvement of irrigation supply or capacity factors or water allowances to lands already irrigated,

(*iv*) the provision for or the improvement of drainage or any reservoir, dam or embankment constructed, maintained or controlled by the Government for the supply or storage of water,

the Government may proceed to levy betterment charges in respect of the lands which are included or are likely to be included in the irrigation scheme by notifying in the official Gazette a copy of which shall be posted at a conspicuous place in the village affected and in such other manner as may be prescribed its intention so to do, and shall specify in such notification such particulars respecting the proposed levy as it may think necessary, including particulars respecting the type and extent of irrigation proposed

Provided that no betterment charges shall be levied in relation to an irrigation scheme where the charges ordinarily leviable under other laws for the time being in force are sufficient to cover the cost of the scheme

Provided further that the amount of the betterment charges recoverable from any scheme will be limited to the difference between the investment on the scheme and such part of it as may make it productive

[1]Inserted by Punjab Act No 7 of 1959

(*c*) construction of watercourses,

(*d*) construction of village roads and works appertaining thereto,

the Government may, for the purpose of recouping or meeting such expenditure, cause a schedule of acreage rates to be prepared showing the rates at which they shall be leviable on the lands, and the manner in which and the persons by whom they shall be payable.

(2) A draft of the schedule prepared under sub-section (1) shall be published in the official Gazette, a copy of which shall be posted at some conspicuous place or in such other manner as may be prescribed.

(3) Any landowner or occupancy tenant who may be affected by the proposed acreage rates may, within sixty days from the date of the publication of the schedule in the official Gazette, present a petition in writing to the Government stating his objections, if any, to the levy of the acreage rates or the incidence thereof.

(4) After considering the objections and after making such further inquiry into the matter as the Government may think fit, the Government shall determine the final schedule of acreage rates and cause the same to be published in the official Gazette and in such other manner as may be prescribed.

Finality of schedule of betterment charges and acreage rates.

7. The betterment charges and the acreage rates leviable under the final schedules as published under sub-section (5) of section 4 and sub-section (4) of section 6 shall be final and no court shall call in question the schedules so published or the levy or rates of such charges or the determination by the Government of the increase in value of lands for the purpose of levying betterment charges.

Demand of betterment charge and acreage rates.

8. (1) When the schedule of betterment charges or acreage rates has been published in the official Gazette under sub-section (5) of section 4 or sub-section (4) of section 6, the Canal Officer shall prepare a demand statement in respect thereof in such form as may be prescribed containing full particulars of the amount which each landowner or occupancy tenant shall be liable to pay and cause a notice of demand to be served on him.

(2) Any landowner or occupancy tenant may within such period as may be prescribed from the date of the notice of demand present a petition to the Divisional Canal Officer or the Deputy Collector objecting to the demand or any part thereof, and the petition shall be disposed of in such manner and orders passed thereon shall be subject to such appeals as may be prescribed.

(3) Any amount due under a notice of demand shall, subject to any orders that may be passed on appeal under sub-section (2), be payable within such time as may be prescribed.

Mode of recovery of betterment charges & acreage rates

9 (1) The betterment charges and the acreage rates may be paid in one or more instalments as may be prescribed

Provided that where the betterment charges or acreage rates are paid in instalments interest shall be payable in respect of such instalments at such rates as may be prescribed and such interest shall be recovered in the same manner as the betterment charges or the acreage rates

(2) Notwithstanding anything contained in this section, the Government may, subject to such conditions as may be prescribed, allow a landowner to relinquish any part of his land in favour of the Government in satisfaction of the betterment charges payable in respect thereof

[1][9-A. (1) Notwithstanding anything to the contrary contained in this Act, pending the publication of final schedules under section 4, any landowner may, if he so chooses, make an advance payment in lump sum of betterment charges leviable under the Act, at such rate as the Government may by notification direct, and where a landowner exercises his choice to do so he shall not be liable to pay advance payment of betterment charges under section 5-A, and if he has already paid any amount under section 5-A, the advance payment payable under this section shall be reduced to that extent

(2) The provisions of sub-sections (3), (4) and (5) of section 5A, shall, as far as may be, apply to the payment made under sub-section (1)]

Postponement of recovery betterment charges and acreage rates in certain cases

10. Where there has been a failure of crops in any area, the Government may, notwithstanding anything to the contrary contained in this Act or the rules made thereunder, postpone for such period as it thinks fit the recovery of any such charges or rates, whether wholly or in part

Apportionment of betterment charges and acreage rates

11. The betterment charges and acreage rates shall be recoverable from the landowner and occupancy tenant concerned in such proportions as may be prescribed

Provided that in making any such apportionment between the landowner and the occupancy tenant of the same land due regard shall be had to the prevailing practice in respect of the division of produce of capital values between such person in respect of that land

Provided further that where there are more landowners than one they shall be jointly and severally liable for the portion recoverable from the landowner, and similarly where there are more occupancy tenants than one they shall be jointly and severally liable for the portion recoverable from the occupancy tenants

[1]Inserted by Punjab Act No 7 of 1959

Betterment charges and acreage rates to be a charge on the land.

12. Any sums lawfully due under this Act by way of betterment charges [1][advance payment of betterment charges] or acreage rates shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrear of land revenue.

Betterment charges and acreage rates not to affect any other charges leviable.

13. The betterment charges [1][advance payment of betterment charges] and acreage rates payable under this Act in respect of any land shall not affect any other rates or charges leviable under any other law for the time being in force.

Bar to jurisdiction of Civil Courts.

14. No civil court shall have jurisdiction in respect of any matter relating to anything done or to be done under this Act.

Indemnity from proceedings.

15. No claim shall lie against the Government for compensation or for the refund of betterment charges or acreage rates on account of loss occasioned by the failure or stoppage of water in a canal or by any cause beyond the control of the Government or by any repairs, alterations or additions made to the canal by the Divisional Canal Officer or by any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where the Divisional Canal Officer considers such action to be necessary.

Indemnity.

16. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

Power of Canal and Revenue officers to summon persons.

17. (1) The Divisional Canal Officer, Canal Collector, Deputy Collector or a Revenue Officer of the rank of a Deputy Commissioner or Assistant Collector may summon any person whose attendance he considers necessary for the purpose of any business before him under this Act.

(2) Any person so summoned shall be bound to appear at the time and place mentioned in the summons, in person or, if the summons so allows, by his recognised agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the summoning officer may require.

Penalty for failure to attend limits of estate in obedience to order of Canal and Revenue Officers.

18. If a person required by a summons, notice, order or proclamation proceeding from a summoning officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable, at the discretion of the summoning officer, to a fine which may extend to fifty rupees, which if not repaid in cash, shall be recoverable as arrears of land revenue.

[1]Subs. by Act No. 7 of 1959.

19. (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act. Power make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the manner in which notices under this Act or the schedules of betterment charges and acreage rates shall be published ;

(*b*) the manner in which valuation may be made of any lands for the purpose of sub section (1) of section 5 and for determining their increase in value ;

(*c*) the manner in which rates of betterment charges shall be calculated with reference to any lands or class of lands in an irrigation scheme ;

[1][(*cc*) the manner in which advance payment of betterment charges shall be realised and the amount thereof deducted or refunded ;]

(*d*) the form in which demand statements may be prepared under sub section (1) of section 8 and the procedure for preparing the same ;

(*e*) the form in which notices of demand may be prepared under this Act and the manner of their service ;

(*f*) the time within which objections may be preferred from notices of demand under sub section (2) of section 8, the procedure for the determination of such objections and the authorities to whom and the manner in which and the conditions subject to which appeals may be preferred therefrom ;

(*g*) the time within which betterment charges and acreage rates shall be payable after the notice of demand and the manner in which such charges or rates may be realised ;

(*h*) the conditions subject to which any sum due under this Act may be paid in instalments and the rate of interest for the payment of such sum in instalments ;

(*i*) the conditions subject to which any land-owner may be allowed to relinquish any part of his land to the Government in satisfaction of betterment charges due from him ;

(*j*) the manner in which betterment charges and acreage rates may be apportioned between landowners and occupancy tenants ;

Inserted by Punjab Act No. 7 of 1959.

(*k*) the manner in which and the conditions subject to which any officer shall exercise his powers under this Act ;

(*l*) any other matter requiring to be prescribed under this Act.

Repeal.

20. [1][(1)] The Punjab Betterment Charges and Acreage Rates Act, 1952 is hereby repealed, but notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the repealed Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act so far as consistent with the provisions of this Act. President's Act No. III of 1952.

[1][(2) The PEPSU Betterment Charges and Acreage Rates Act, 1954 is hereby repealed : Pepsu Act No. 1 of 1955.

Provided that the repeal shall not affect—

(*a*) the previous operation of the Act so repealed or anything duly done or suffered thereunder ; or

(*b*) any right, privilege, obligation or liability acquired or incurred under the Act so repealed ; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed ; or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :

Provided further that anything done or any action taken under the Act so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.]

[1]Renumbered and added by Section 3 of Punjab Act 12 of 1958.

*THE PEPSU BETTERMENT CHARGES AND ACREAGE RATES ACT, 1954

[ACT No 1 OF 1955]

An Act to provide for the levy of Betterment Charges and Acreage Rates on certain lands in the State of Patiala and East Punjab States Union

IT is hereby enacted in the Fifth Year of the Republic of India as follows —

1. This Act may be called the PEPSU Betterment Charges and Acreage Rates Act, 1954 Short title

2. In this Act, unless the context otherwise requires,— Definitions

(*a*) "acreage rates" means the charges levied under section 6 on lands included in an irrigation scheme ,

(*b*) "betterment charges" means the charges levied under section 4 on lands included in an irrigation scheme ,

(*c*) "canal" includes—

(*i*) all parts of a river, stream, lake or natural collection of water or natural drainage channel to which the provisions of Part II of the Northern India Canal and Drainage Act, 1873 apply, I of 1873

(*ii*) All canals, channels, reservoirs, wells, tube wells and lift irrigation arrangements constructed maintained or controlled by the Government for the supply or storage of water,

(*iii*) all works embankments, structures, supply and escape channels connected with such canals, channels, reservoirs, wells, tube wells or lift irrigation arrangements,

(*iv*) all water courses, that is to say, all channels which are supplied with water from a canal but which are not maintained at the cost of the Government, and all subsidiary works belonging to any such channel ,

(*d*) "Government" means the Government of the State of Patiala and East Punjab States Union ,

(*e*) "irrigation scheme" means any such scheme as is referred to in section 3 ,

VII of 87 (*f*) "landowner" has the meaning assigned to it in the Punjab Land Revenue Act, 1887,

(*g*) "prescribed" means prescribed by rules made under this Act ,

*This Act has since been repealed by the Punjab Act 12 of 1958

(h) the expressions "land", "tenant" and "occupancy tenant" have the meanings respectively assigned to them in the Punjab Tenancy Act, 1887; XVI of 1...

(i) the expressions "Canal-Officer" and "Divisional Canal-Officer" have the meanings respectively assigned to them in the Northern India Canal and Drainage Act, 1873; VIII of 1...

(j) all references to the Northern India Canal and Drainage Act, 1873, the Punjab Tenancy Act, 1887 and the Punjab Land Revenue Act, 1887 shall be construed as references to those Acts as in force in the State of Patiala and East Punjab States Union. VIII of 18... XVI of 18... XVII of 18...

Irrigation schemes and notification of proposal to levy betterment charges.

3. Where any scheme has come or comes into operation after the 15th day of August, 1947, for any one or more of the following purposes, namely :—

(i) the irrigation of lands from any existing or projected canal ;

(ii) the extension of irrigation of land situated within the approved irrigation boundary of an existing canal ;

(iii) the improvement of irrigation supply or capacity factors or water allowances to lands already irrigated ;

(iv) the provision for or the improvement of drainage or any reservoir, dam or embankment constructed, maintained or controlled by the Government for the supply or storage of water,

the Government may proceed to levy betterment charges in respect of the lands which are included or are likely to be included in the irrigation scheme by notifying in the official Gazette and in such other manner as may be prescribed its intention so to do, and shall specify in such notification such particulars respecting the proposed levy as it may think necessary, including particulars respecting the type and extent of irrigation proposed.

Explanation I.—"Capacity factor" means the ratio of the mean supply to the authorised full supply discharge of a channel, and "mean supply" for a period connotes the sum of the daily supply in cusecs divided by the number of days during that period.

Explanation II.—"Water allowance" means the designed number of cusecs of outlet or distributary capacity per thousand acres of land included in an irrigation scheme.

Explanation III.—"Cusec" is the unit of discharge, and means the rate of flow of one cubic foot of water per second.

Procedure for levy of betterment charges.

4. (1) At any time after the expiry of one month from the date of the notification referred to in section 3, the Government may cause a schedule of betterment charges to be

prepared for all lands or class of lands included in an irrigation scheme showing the rates at which the charges shall be leviable on the lands and payable by the landowners and occupancy tenants thereof and the proportions in which the charges shall be so payable

(2) In preparing a schedule under sub section (1) for the levy of betterment charges in respect of any irrigation scheme, regard shall be had to the following, namely —

(*a*) the type of irrigation ,

(*b*) the improvement in irrigation ,

(*c*) the extent of betterment accruing to the lands

(3) A draft of the schedule prepared under sub section (1) shall be published in the official Gazette and in such other manner as may be prescribed

(4) Any landowner or occupancy tenant who may be affected by the proposed betterment charges may, within sixty days from the date of the publication of the schedule in the official Gazette, present a petition in writing to the Government stating his objections, if any, to the levy of the betterment charges or the rate thereof

(5) After considering the objections and after making such further inquiry into the matter as the Government may think fit, the Government shall determine the final schedule of betterment charges and cause the same to be published in the official Gazette and in such other manner as may be prescribed

Amount of betterment charges

5 (1) The amount of the betterment charges leviable in respect of any lands included in an irrigation scheme shall not exceed one half of the difference between the value of the land with reference to such date prior to the commencement of any work in connection with irrigation scheme as the Government may, by notification in the official Gazette, fix in this behalf and their estimated value with reference to such other date after such commencement as the Government may similarly fix, and such valuations shall be made in the prescribed manner

(2) Where in an irrigation scheme only lift irrigation arrangements are maintained and operated by the land owners or occupancy tenants, the betterment charges leviable shall not exceed one half of the charges which would otherwise have been payable for gravity flow irrigation

Provided that whenever such lift irrigation arrangements are converted into gravity flow irrigation, the landowners or occupancy tenants, as the case may be, shall be liable to pay the full betterment charges in respect of the lands

Levy of ac…

6 (1) Where in respect of any lands included in an

more of the following works or in undertaking any one or more of the following measures, namely :—

(*a*) rectangulation, sub-rectangulation or killabandi (that is to say, subdivision of land into one-acre fields),

(*b*) level, topographical or soil surveys,

(*c*) construction of watercourses,

(*d*) construction of village roads and works appertaining thereto,

the Government may, for the purpose of recouping or meeting such expenditure, cause a schedule of acreage rates to be prepared showing the rates at which they shall be leviable on the lands and the manner in which and the persons by whom they shall be payable.

(2) A draft of the schedule prepared under sub-section (1) shall be published in the official Gazette and in such other manner as may be prescribed.

(3) Any landowner or occupancy tenant who may be affected by the proposed acreage rates may within sixty days from the date of the publication of the schedule in the official Gazette, present a petition in writing to the Government stating his objections, if any, to the levy of the acreage rates or the incidence thereof.

(4) After considering the objections and after making such further inquiry into the matter as the Government may think fit, the Government shall determine the final schedule of acreage rates, and cause the same to be published in the official Gazette and in such other manner as may be prescribed.

Finality of schedule of betterment charges and acreage rates.

7. The betterment charges and the acreage rates leviable under the final schedules as published under sub-section (5) of section (4) and sub-section (4) of section 6 shall be final and no court shall call in question the schedules so published or the levy or rates of such charges or the determination by the Government of the increase in value of lands for the purpose of levying betterment charges.

Demand of betterment charges and acreage rates.

8. (1) When the schedule of betterment charges or acreage rates has been published in the official Gazette under sub-section (5) of section 4 or sub-section (4) of section 6, the Canal Officer shall prepare a demand statement in respect thereof in such form as may be prescribed containing full particulars of the amount which each landowner or occupancy tenant shall be liable to pay and cause a notice of demand to be served on him.

(2) Any landowner or occupancy tenant may, within such period as may be prescribed from the date of the notice of demand, present a petition to the Divisional Canal Officer or the Deputy Collector objecting to the demand or any part thereof, and the petition shall be disposed of in such manner and orders passed thereon shall be subject to such appeals as may be prescribed.

(3) Any amount due under a notice of demand shall, subject to any orders that may be passed on appeal under sub section (2), be payable within such time as may be prescribed

9. (1) The betterment charges and acreage rates may be paid in one or more instalments as may be prescribed

Mode of recovery of betterment charges and acreage rates

Provided that where the betterment charges or acreage rates are allowed to be paid in instalments interest shall be payable in respect of such instalments at such rates as may be prescribed and such interest shall be recovered in the same manner as the betterment charges or the acreage rates

(2) Notwithstanding anything contained in this section, the Government may, subject to such conditions as may be prescribed, allow a landowner to relinquish any part of his land in favour of the Government in satisfaction of the betterment charges payable in respect thereof

10. Where there has been a failure of crops in any area, Government may notwithstanding anything to the contrary contained in this Act or the rules made thereunder, postpone for such period as it thinks fit, the recovery of any such charge or rates, whether wholly or in part

Postponement of recovery of betterment charges and acreage rates in certain cases

11. The betterment charges and acreage rates shall be recoverable from the landowner and occupancy tenant concerned in such proportions as may be prescribed

Apportionment of betterment charges and acreage rates

Provided that in making any such apportionment between the landowner and the occupancy tenant of the same land due regard shall be had to be prevail in practice in respect of the division of produce or capital values between such persons in respect of that land

Provided further that where there are more land owners than one, they shall be jointly and severally liable for the portion recoverable from the landowners and similarly where there are more occupancy tenants than one they shall be jointly and severally liable for the portion recoverable from the occupancy tenants

12. Any sum lawfully due under this Act by way of betterment charges or acreage rates shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrear of land revenue

Betterment charges and acreage rates to be a charge on the land

13 The betterment charges and acreage rates payable under this Act in respect of any land shall not affect any other rates or charges leviable under any other law for the time being in force

Betterment charges and acreage rates not to affect any other charges leviable

Powers of Canal and Revenue Officers to summon persons.

14. (1) The Divisional Canal-Officer, Canal Officer, Deputy Collector or a Revenue Officer of the rank of Deputy Commissioner or Assistant Collector may summon any person whose attendance he considers necessary for the purpose of enabling him to discharge any function imposed on him by or under this Act.

(2) Any person so summoned shall be bound to appear at the time and place mentioned in the summons, in person or, if the summons so allows, by his recognised agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the summoning officer may require.

Penalty for failure to attend.

15. (1) If a person required to attend at a certain time and place within limits of the estate in which he ordinarily resides or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable, at the discretion of the summoning officer, to a penalty which may extend to fifty rupees.

(2) Any person aggrieved by an order passed under sub-section (1) imposing a penalty on him may prefer an appeal in such manner, within such time and to such authority, as may be prescribed.

(3) Any penalty imposed on a person under this section may be recovered from him as if it were an arrear of land revenue.

Bar to jurisdiction of civil court.

16. No civil court shall have jurisdiction in respect of any matter relating to anything done or to be done under this Act.

Indemnity from proceedings.

17. *No claim shall lie against the Government for* compensation or for the refund of betterment charges or acreage rates on account of loss occasioned by the failure or stoppage of water in a canal or by any cause beyond the control of the Government or by any repairs, alterations or additions made to the canal by the Divisional Canal-Officer or by any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where the Divisional Canal Officer considers such action to be necessary.

Indemnity.

18. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

Power to make rules.

19. (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the manner in which notices under this Act, or the schedules of betterment charges and acreage rates shall be published ,

(*b*) the manner in which valuation may be made of any lands for the purpose of sub section (1) of section 5 and for determining their increase in value ;

(*c*) the manner in which rates of betterment charges shall be calculated with reference to any lands or class of lands in an irrigation scheme,

(*d*) the form in which demand statements may be prepared under sub section (1) of section 8 and the procedure for preparing the same ,

(*e*) the form in which notices of demand may be prepared under this Act and the manner of their service ,

(*f*) the time within which objections may be preferred from notices of demand under sub section (2) of section 8, the procedure for the determination of such objections and the authorities to whom, and the manner in which and the conditions subject to which, appeals may be preferred therefrom ,

(*g*) the time within which betterment charges and acreage rates shall be payable after the notice of demand and the manner in which such charges or rates may be realized ,

(*h*) the conditions subject to which any sum due under this Act may be paid in instalments and the rate of interest for the payment of such sum in instalments ,

(*i*) the conditions subject to which any landowner may be allowed to relinquish any part of his land to the Government in satisfaction of betterment charges due from him ,

(*j*) the manner in which betterment charges and acreage rates may be apportioned between landowners and occupancy tenants ,

(*k*) the manner in which and the conditions subject to which any officer shall exercise his powers under this Act ,

(*l*) any other matter requiring to be prescribed under this Act

President's Act I of 1954 — Repeal saving

20. The Patiala and East Punjab States Union Betterment Charges and Acreage Rates Act, 1953 is hereby repealed but, notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Act , shall be deemed to have been done or taken in exercise of the powers conferred by or

THE RAJASTHAN LANDS SPECIAL IRRIGATION CHARGES ACT, 1953

[ACT NO. XXV OF 1953]

An Act to provide for the levy of special charges in respect of lands included in irrigation schemes

WHEREAS it is expedient to provide for the levy of special charges by way of betterment charge and acreage rate on lands included in, and benefited or likely to be benefited by, irrigation schemes projected or controlled by, and undertaken or maintained at the cost of Government;

BE it enacted by the Rajasthan State Legislature as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Rajasthan Lands Special Irrigation Charges Act, 1953.

(2) It extends to the whole of [1][the State of] Rajasthan.

(3) It shall come into force on the date of its publication in the Rajasthan Gazette as an Act.

Interpretation.

2. (1) In this Act, unless there is something repugnant in the subject or context,—

(*i*) "acreage rates" means the charges levied under section 4 on lands included in an irrigation scheme ;

(*ii*) "betterment charges" means the charges levied under section 5 on lands included in an irrigation scheme ;

(*iii*) "canal" includes—

(*a*) all canals, channels, reservoirs, wells, tube-wells and lift irrigation arrangements, constructed, maintained or controlled by the Government for the supply or storage of water,

(*b*) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs, wells, tube-wells, or lift irrigation arrangements,

(*c*) all water courses, that is to say, all channels which are supplied with water from a canal but which are not maintained at the cost of the Government and all subsidiary works belonging to any such channels, and

(*d*) all parts of a river, stream, lake or other natural collection of still water or a natural drainage channel, the water of which is liable by virtue of a declaration made under any law for the

[1] Substituted by the Schedule of Rajasthan Act 27 of 1957.

time being in force, to be applied or used by the Government for the purpose of any existing or projected canal or drainage work,

(iv) "canal officer" means an officer appointed to exercise control or jurisdiction over a canal or any part thereof;

(v) "capacity factor" means the ratio of the mean supply to the authorised full supply discharge of a canal, and "mean supply" for a period connotes the sum of the daily supply in cusecs divided by the number of days during that period,

(vi) "cusec" is the unit of discharge and means the rate of flow of one cubic foot of water per second,

(vii) "Divisional Canal Officer" means an officer appointed to exercise control over a division of a canal,

(viii) "drainage work" includes escape channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by Government but does not include works for the removal of sewage from towns,

(ix) [1][ ],

(x) "irrigation scheme" means a scheme which has come or comes into operation after the 7th day of April, 1949, for any one or more of the following purposes, namely —

(a) the irrigation of lands from any existing or projected canal,

(b) the extension of irrigation to lands situate within the approved irrigation boundary of an existing canal,

(c) the improvement of irrigation supply or capacity factors or water allowances to lands already irrigated,

(d) the provision for, or the improvement or drainage of, any reservoir, dam or embankment constructed, maintained or controlled by the Government for the supply or storage of water,

(xi) "land" means land which is let or held for agricultural purposes or for pasturage, and includes the land of a tank or other land covered with water which may be used for the purpose of irrigation or growing singhara or other produce and also land occupied by houses, enclosures or other structures on a holding but does not include 'abadi land',

(xii) "landholder" means the person to whom rent is, or, but for a contract, express or implied, would be, payable and includes—

(a) in relation to a sub-tenant, the tenant in chief, and

1. Schedule of Rajasthan Act 27 of 1957

schedule of betterment charges and cause the same to be published in the Rajasthan Gazette, and in such other manner as may be prescribed.

(7) The amount of the betterment charges leviable in respect of any lands included in an irrigation scheme shall not exceed one-half of the difference between the value of the lands with reference to such date prior to the commencement of any work in connection with the irrigation scheme as the Government may, by notification in the Rajasthan Gazette, fix in this behalf and their estimated value with reference to such other date after such commencement as the Government may similarly fix, and such valuations shall be made in the prescribed manner.

(8) Where in an irrigation scheme only lift irrigation arrangements are maintained and operated by the landholders or occupancy tenants, the betterment charges leviable shall not exceed one-half of the charges which would otherwise have been payable for gravity flow irrigation.

(9) Whenever such lift irrigation arrangements are converted into gravity flow irrigation, the landholders or occupancy tenants, as the case may be, shall be liable to pay the full betterment charges in respect of the lands.

Finality of schedule.

6. The special irrigation charges leviable under the schedules as published under sub-section (4) of section 4 and sub-section (6) of section 5 shall be final and no court shall call in question the schedules so published or the levy or rates of such charges or the determination by the Government of the increase in value of lands for the purpose of levying betterment charges.

Demand of acreage rates and betterment charges.

7. (1) When the schedule of acreage rates or betterment charges has been published in the Rajasthan Gazette, under sub-section (4) of section 4 or sub-section (6) of section 5, the Canal Officer shall prepare a demand statement in respect thereof in such form as may be prescribed containing full particulars of the amount which each landholder or occupancy tenant shall be liable to pay and cause a notice of demand to be served on him.

(2) Any landholder or occupancy tenant may, within such period as may be prescribed from the date of the notice of demand, present a petition to the Divisional Canal Officer objecting to the demand or any part thereof, and the petition shall be disposed of in such manner and orders passed thereon shall be subject to such appeals as may be prescribed.

(3) Any amount due under a notice of demand shall, subject to any orders that may be passed on appeal under sub-section (2), be payable within such time as may be prescribed.

Mode of recovery.

8. (1) The special irrigation charges may be paid in one or more instalments as may be prescribed:

Provided that where the special irrigation charges are allowed to be paid in instalments interest shall be payable in respect of such instalments at such rate as may be prescribed and such interest shall be recovered in the same manner as the special irrigation charges

(2) Notwithstanding anything contained in this section, the Government may, subject to such conditions as may be prescribed, allow a landholder to relinquish any part of his land in favour of the Government in satisfaction of the betterment charges payable in respect thereof

Postponement of recovery in certain cases

9. Where there has been a failure of crops in any area, the Government may, notwithstanding anything to the contrary contained in this Act or the rules made thereunder postpone for such period as it thinks fit the recovery of any special irrigation charges, whether wholly or in part

Apportionment of charges

10. The special irrigation charges shall be recoverable from the landholders and occupancy tenants concerned in such proportions as may be prescribed

Provided that in making any such apportionment between the landholder and the occupancy tenant of the same land due regard shall be had to the prevailing practice in respect of the division of produce or capital values between such persons in respect of that land

Provided further that where there are more landholders than one they shall be jointly and severally liable for the portion recoverable from the landholder, and similarly where there are more occupancy tenants than one they shall be jointly and severally liable for the portion recoverable from the occupancy tenant

Special charges under Act to be a charge on land

11. Any sum lawfully due under this Act by way of special irrigation charges shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrear of land revenue

Bar to jurisdiction of civil courts

12 No civil court shall have jurisdiction in respect of any matter relating to anything done or to be done under this Act

Non liability of Government for losses etc

13. No claim shall lie against the Government for compensation or for the refund of special irrigation charges on account of loss occasioned by the failure or stoppage of water in a canal or by any cause beyond the control of the Government or by any repairs, alterations or additions made to the canal by Canal Officer or the Divisional Canal Officer or by any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where the Canal Officer or the Divisional Canal Officer considers it to be necessary

Indemnity.

14. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

Power to make rules.

15. (1) The Government may, by notification in the Rajasthan Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner in which notices under this Act or the schedules of special irrigation charges shall be published,

(*b*) the manner in which valuation may be made of any lands for the purpose of sub-section (7) of section 5 and for determining their increase in value,

(*c*) the manner in which rates of special irrigation charges shall be calculated with reference to any lands or class of lands in an irrigation scheme,

(*d*) the time when, and the manner and form in which, demand statements in respect of special irrigation charges levied under this Act shall be prepared,

(*e*) the form in which notices of demand in respect of special irrigation charges levied under this Act may be prepared under this Act and the manner of their service,

(*f*) the time within which objections may be preferred from notices of demand, the procedure for the determination of such objections and the authorities to whom and the manner in which and the conditions subject to which appeals may be preferred therefrom,

(*g*) the time within which special irrigation charges shall be payable after the notice of demand and the manner in which such charges may be realised,

(*h*) the conditions subject to which any sum due under this Act may be paid in instalments and the rate of interest for the payment of such sum in instalments,

(*i*) the conditions subject to which any landholder may be allowed to relinquish any part of his land to the Government in satisfaction of betterment charges due from him,

(*j*) the manner in which special irrigation charges may be apportioned between landholders and occupancy tenants,

(*k*) the manner in which and the conditions subject to which, any officer shall exercise his powers under this Act, and

(*l*) any other matter requiring to be prescribed under this Act.

THE HIMACHAL PRADESH MINOR CANALS ACT, 1955

[ACT No XIV OF 1955]

An Act to make better provision for the control and management of Minor Canals and to provide for the levy of betterment charges thereon in the Himachal Pradesh

IT is hereby enacted in the Sixth Year of Republic as follows

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Minor Canals Act, 1955 Short title and extent

(2) It shall extend to the whole of the State of Himachal Pradesh

2. (1) The provisions of this Act shall apply to the extent and in the manner hereinafter provided to every canal specified in either Schedule I or Schedule II, as the case may be Operation Act

(2) At any time after the commencement of this Act, the State Government may, from time to time, by Notification—

(a) include any canal under either Schedule I or Schedule II as the case may be, or transfer a cana- from one Schedule to the other Schedule, and theres upon the provisions of this Act applicable to canals included under such Schedule, or such of the said provisions as the State Government may direct, shall apply to such canal, or

(b) exclude from the operation of this Act any canal included under either Schedule I or Schedule II.

Provided that no canal shall be included under Schedule I, unless—

(a) it is owned in whole or in part by Government, or

(b) is at the commencement of this Act, managed by Government or by any local authority, or

(c) is situated partly within and partly without the territories to which this Act extends, or

(d) has been included under Schedule II and is ferred to Schedule I by direction of Government.

Definitions. 3. In this Act, unless there is something repugnant in the subject or context,—

(*i*) "beneficiary" means in respect of any canal, any person for the time being deriving, or who is to derive benefit, directly or indirectly, from such canal ;

(*ii*) "betterment charges" means the charges levied under Chapter III on lands included in an irrigation scheme ;

(*iii*) "canal" means any canal, natural or artificial channel or line or natural drainage or any reservoir, dam or embankment, wells and lift irrigation arrangements constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water-course or subsidiary works as defined in this section ;

(*iv*) "Collector" means the head revenue officer of a district and includes any officer appointed under this Act to exercise all or any of the powers of a Collector;

(*v*) "Commissioner" means any officer appointed under this Act to exercise all or any of the powers of a Commissioner ;

(*vi*) "construction" and "construct" include any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but do not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient ;

(*vii*) "creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year;

(*viii*) "district" means a district as fixed for revenue purposes ;

(*ix*) "Government" or "State Government" means the Lieutenant Governor of Himachal Pradesh;

(*x*) "irrigator" means in respect of any land which is irrigated from a canal any person for the time being directly deriving benefit by such irrigation and includes a land-owner or any other person having interest in such land ;

(xii) "mill" means any contrivance whereby the water power of any canal is used for grinding, sawing or pressing or for driving or working machinery or for any other similar purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself,

(xiii) "prescribed' means prescribed by rules made under this Act,

(xiv) "record of right" and "Revenue Officer" have the meanings assigned to them respectively in the Himachal Pradesh Land Revenue Act, 1953;

(xv) "Subsidiary works" means all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and include also the land required for such works,

(xvi) "water-course" means any channel which is supplied with water from a canal and which is maintained at the cost of the irrigators, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel,

(xvii) "water rate" means the charge made for canal water other than betterment charges,

(xviii) "land owner" shall have the same meaning as assigned to it in the Himachal Pradesh Land Revenue Act, 1953

CHAPTER II

CONSTRUCTION OF CANALS

Prohibition against construction of canals without permission.

4. When the State Government has notified in this behalf any natural channel, lake or other collection of water, no person shall, without permission previously obtained in the manner prescribed in the section next following, construct a canal intended to be fed from any such channel, lake or other collection of water

Provided that nothing in this section shall apply to the construction of a water course from an existing canal or to the construction of wells

Application for permission and procedure thereon.

5. (1) Any person desiring to construct a canal intended to be fed from any source of supply which has been notified by the State Government under section 4, may apply, in writing, to the Collector for the permission prescribed in that section

(2) Every application under sub section (1) shall be in such form and shall contain such particulars as the Government may prescribe in that behalf

Demand of betterment charges.

11. (1) When the schedule of betterment charges has been published in the official gazette under sub-section (4) of section 9, the Collector shall prepare a demand statement in respect thereof and in such form as may be prescribed containing full particulars of the amount which each land-owner or the person having interest in such land shall be liable to pay and cause a notice of demand to be served on him.

(2) Any land owner or the person having interest in such land may within such period as may be prescribed from the date of the notice of demand, present a petition to the Collector objecting to the demand or any part thereof, and the petition shall be disposed of in such manner and orders passed thereon shall be subject to such appeals as may be prescribed.

(3) Any amount due under a notice of demand shall, subject to any orders that may be passed on appeal under sub-section (2), be payable within such time as may be prescribed.

Exemption of certain schemes from levy of betterment charges.

12. The Government may exempt any scheme or class of schemes coming under the definition of "canal" from the levy of betterment charges, if the Government is satisfied after necessary enquiry that such scheme or schemes have not enhanced the value of land or have not substantially increased its annual produce.

Postponement of recovery of betterment charges.

13. Where there has been a failure of crops in any area, the Government may, notwithstanding anything to the contrary contained in this Act or the rules made thereunder postpone for such period as it thinks fit the recovery of any such betterment charges, whether wholly or in part.

Apportionment of betterment charges.

14. The betterment charges shall be recoverable from the land-owner and the person having interest in such land in such proportions as may be prescribed :

Provided that in making any such apportionment between the land-owner and other persons having interest in the same land, due regard shall be had to the prevailing practice in respect of the division of produce or capital values between such persons in respect of that land :

Provided further that where there are more land-owners than one they shall be jointly and severally liable for the portion recoverable from the land-owner and similarly where there are more than one person having interest in the land they shall be jointly and severally liable for the portion recoverable from them.

Betterment charge to be a charge on the land.

15. The betterment charge payable under the provisions of this chapter shall take priority over all other charges payable in respect of the land except land revenue and shall be deemed to that extent to be a charge on the land and shall be recoverable as an arrear of land revenue.

16. The betterment charge payable under the provisions of this chapter in respect of any land shall not affect any other rates or charges leviable under any other law for the time being in force

Betterment charge not to affect any other charge leviable

17. No Civil Court shall have jurisdiction in respect of any matter relating to anything done or to be done under this chapter

Bar to jurisdiction of Civil Courts

18. No claim shall lie against the Government for compensation or for the refund of betterment charges on account of loss of water in canal d arding maintenance e of Government maintained canals by any cause beyond the control of the Government or by any repairs, alterations or additions made to the canal by the Collector or by any measures taken by him for regulating the proper flow of water therein or for maintaining the established course of irrigation in cases where the Collector considers such action to be necessary

Indemnity from proceedings

19. (1) The Government may, by notification in the official gazette, make rules to carry out the purposes of the provisions of this chapter

Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(*a*) the manner in which notices under this chapter or the schedules of betterment charges shall be published,

(*b*) the manner in which rates of betterment charges shall be calculated with reference to any lands or class of lands in an irrigation scheme ,

(*c*) the form in which demand *statements may be prepared* under sub section (1) of section 11 and the procedure for preparing the same,

(*d*) the form in which notices of demand may be prepared and the manner of their service ,

(*e*) the time within which objections may be preferred from notices of demand under section 11, the procedure for the determination of such objections and the authorities to whom and the manner in which and the conditions subject to which appeals may be preferred therefrom ;

(*f*) the time within which betterment charges shall be payable after the notice of demand and the manner in which such charges may be realised ;

(*g*) the manner in which betterment charges ma apportioned between land owners and the having interest in the land

(*h*) the manner in which and the conditions subject to which any officer shall exercise his powers under the provisions of this chapter ; and

(*i*) any other matter requiring to be prescribed under this chapter.

CHAPTER IV

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I

This chapter applicable only to canals under Schedule. I.

20. Except as the Government may otherwise direct under section 80 the provisions of this chapter shall apply only to canals for the time being included under Schedule I.

General powers of Collector.

21. (1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may—

(*a*) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof ; and

(*b*) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person or, in the case of a sluice or outlet, to any water-course or any person is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.

(2) No claim shall be enforceable against the Government for compensation in respect of loss caused by any order passed under sub-section (1) but any person suffering loss by reason of any order passed under sub-section (1) (*a*) may claim such remission of the ordinary charges payable for the use of the water as is authorised by the State Government :

Provided that, if any, right to water entered in a record-of-rights prepared or revised under section 40(1) or deemed under section 40(3) to have been made under this Act or admitted in any agreement between the Government and any person is substantially diminished in consequence of action taken under sub-section (1) (*a*) the Collector shall avoid compensation under section 66 to such person in respect of the diminution of his right.

(3) No right to the use of the water of a canal shall be or be deemed to have been, acquired under the Indian Limitation Act, 1908, nor shall the State Government be bound to supply any person with water.

Power of State Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation.

22. (1) The Government may at any time suspend or extinguish any right to which any person is entitled in or over any canal if the exercise of such rights is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.

(2) In every such case, the State Government shall cause to be paid to the person whose right is suspended or extinguished compensation to be assessed by the Collector under section 66 In assessing compensation for the purposes of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction

23. The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon and dig and bore into the sub soil,

Power enter ar survey etc

and make and set up suitable land-marks, level-marks and water gauges ,

and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector ,

and, where otherwise such inquiry cannot be completed the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle ,

Power clear land

and may also enter upon any land, building or water-course on account of which any water rate is chargeable, or has been remitted either in whole or part or included in tl of inspecting or r of measuring the a water rate and of doing all things necessary for the proper regulation and management of such canal

Power inspect a regulate w er-supply

Provided that, if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so

Notice of tended ent into houses

In every case of entry under this section, the Collector shall upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section

Compensa tion for mage cause by entry

24. In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident

Power enter for pairs and prevent ac dents

In every such case, the Collector shall upon application pay compens may be

Compensa for

Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to the banks and compensation for damage.

25. (1) The Collector or any person acting under his general or special orders in this behalf, may within such distance from the canal as the Government may by rule determine, occupy land adjacent to any canal for the purpose of—

(*a*) depositing upon it soil excavated from the canal, or

(*b*) excavating from it earth for repairs to the canal.

The Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

(2) The owner of any land which has been occupied after the commencement of this Act for any purpose under sub-section (1) and has remained in such occupation for period exceeding three years may require that such land shall be permanently acquired in accordance with provisions of section 55.

Supply of water through intervening water course.

26. Whenever application is made to a Collector for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed and, after making inquiry on such day, the Collector shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

The applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

27. Any person desiring the construction of a new water-course may apply in writing to the Collector stating—

(*i*) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(*ii*) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right;

(*iii*) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Collector thereupon.

28. If the Collector considers—

(*i*) that the construction of such water-course is expedient, and

(ii) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 31, and upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment of the said water-course and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out

Application for transfer of existing water course

29. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating—

(i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course,

(ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for procuring such transfer,

(iii) that he is able to defray the cost of such transfer

Procedure thereupon

If the Collector considers—

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 31 in respect of such transfer, and, upon such deposit being made, he shall publish a notice of the application in every village affected

Inquiry into and determination of objections to construction or transfer of water-courses.

30. (1) When within thirty days from the publication of a notice under section 28 or section 29, as the case may be, any person interested in the land or water course to which the notice refers, applies to the Collector as aforesaid stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections as the case may be.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection as the case may be

Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.

31. No applicant under section 27 or 29 as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

Compensation to be made under this section shall be assessed as provided in section 66 but the Collector, may,if the person to be compensated so desires, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

32. (1) When any such applicant has duly complied with the conditions laid down in section 31, he shall be placed in occupation of the land or water-course as aforesaid, and the following rules and conditions shall be thereafter binding on him and his representative in interest :—

(*a*) *In all cases*—

First—All works necessary for the passage across such water-course existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representatives in interest to the satisfaction of the Collector.

Second—Land occupied for a water-course under the provisions of section 28 shall be used only for the purposes of such water-course.

Third—The proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land.

(*b*) *In cases in which land is occupied or a water-course is transferred on the terms of a rent charge*—

Fourth—The applicant or his representative in interest shall so long as he occupied such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth—If the right to occupy the land ceases owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition or until

he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines

Sixth—The Collector may, on the application of the person entitled to receive such rent or compensation determine the amount of rent due or assess the amount of such compensation and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount with interest thereon at the rate of six per cent per annum from the date on which it became due and shall pay the same when recovered, to the person to whom it is due

(2) If any of the rules and conditions, prescribed by this section are not complied with, or if any water course constructed or transferred under this Act is disused for three years continuously the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

Construction of outlets from canals by Collector

33. The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water-course

Powers to convert several water-courses running for a long distance side by side into one water course.

34. (1) In cases where there are water-courses running side by side or so situated as to interfere with the economical use or proper management of the water-supply, the Collector if applied to for that purpose, or on his own motion, may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him

(2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1) the Collector may himself execute the work

(3) Whenever a water-course has been reconstructed or a new system substituted under sub section (1) or sub-section (2), the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course

35. The procedur
pation of land for the
applicable to the occ
alteration of a water-course and for the deposit of soil from water-course clearances

and alterations

Costs of executing works under section 34 by whom payable

36. In every case under section 34, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Collector may in each case determine

of Gov-

in respect of any canal —

(a)

(*c*) annual silt clearance,

(*d*) executing any work necessary thereto.

Cost of labour to be borne by the owners of the land benefited.

38. (1) The Government may by notification direct that the canal shall be constructed from a river, stream, creek or another canal for the irrigation of land in an estate or estates to be mentioned in the notification and that the cost of such construction shall be borne in whole or in part by the owners of the land to be benefited from the canal.

Provisions of this Act to apply to the new canals.

(2) The provisions of this Act in regard to the construction, repairs, maintenance and management of canals included in Schedule I shall apply to the new canals constructed in pursuance of the Government no ification issued under sub-section (1).

Powers of Collector upon issue of notifications under section 38.

39. Upon the issue of notification under section 38 the Collector may, from time to time, by general or special order—

(*a*) determine the amount of labour to be provided or the amount of work to be performed by each irrigator;

(*b*) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of the work;

(*c*) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section ; and

(*d*) fund all costs so recovered and expend them on the provisions of labour engaged for any of the canals to which the notification applies, or subject to the provision, if any, of a record-of-rights specified in section 40, on any other purpose connected with the well-being thereof:

Provided that, the costs assessed as aforesaid shall not exceed such amount as may be prevalent in the area for each day's labour of each of the labourers in respect of whom default has occurred.

Power to prepare record for canal.

40. (1) The Collector shall, whenever the State Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely:—

(*a*) the custom or rule of irrigation;

(*b*) the rights to water and the conditions on which such rights are enjoyed;

(*c*) the rights as to the erection, repair, reconstruction and working of mills, and the condition on which such rights are enjoyed; and

(*d*) such other matters as the Government may, by rule prescribe in this behalf.

(2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor

Provided that no such entry shall be so constructed as to limit any of the powers conferred on the Government by this Act

(3) When a record showing all or any of the matters enumerated in sub section (1) has been framed at any settlement of the land revenue already sanctioned by the Govern ment and has been attested by the revenue officer, such record shall be deemed to have been made under this section

(4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the direction of the Collector, all information necessary for the correct preparation of a record under this section

(5) The provisions of Chapter IV of the Himachal Pradesh Land Revenue Act, 1953 shall, so far as may be, apply to the preparation and revision of every such record

Water Rates

41. (1) Subject to the terms of any agreement made by it with the owners or irrigators, the Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner Such rate or rates shall be determined keeping due regard of the maintenance and operation charges for the system and the cost of collection of the water-rates Levy of water-rates

(2) The Government may, by notification, direct that in addition to or in lieu of the rate or rates above mentioned the land revenue for the time being assessed on the land receiving canal water shall be enhanced in consequence of the change of the class of the land from unirrigated to irrigated

Provided that, the new rate of assessment shall not exceed that fixed at the time of settlement for irrigated lands of the same class in the same village or in its vicinity

Provided further that, the Government may allow such lands to continue to be assessed at the rate or rates at which they were assessed immediately before they became irrigated, for a number of harvests to be fixed by the Government

(3) The Government may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised manner

(4) The rate or rates imposed under sub section (1)

(5) Subject to the terms of any such agreement as said, the proceeds of any rate or rates levied under th shall be disposed of in such manner as the C err by general or special rule direct

(*c*) annual silt clearance,

(*d*) executing any work necessary thereto.

Cost of labour to be borne by the owners of the land benefited.

38. (1) The Government may by notification direct that the canal shall be constructed from a river, stream, creek or another canal for the irrigation of land in an estate or estates to be mentioned in the notification and that the cost of such construction shall be borne in whole or in part by the owners of the land to be benefited from the canal.

Provisions of this Act to apply to the new canals.

(2) The provisions of this Act in regard to the construction, repairs, maintenance and management of canals included in Schedule I shall apply to the new canals constructed in pursuance of the Government no ification issued under sub-section (1).

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(*a*) determine the amount of labour to be provided or the amount of work to be performed by each irrigator;

(*b*) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of the work;

(*c*) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section ; and

(*d*) fund all costs so recovered and expend them on the provisions of labour engaged for any of the canals to which the notification applies, or subject to the provision, if any, of a record-of-rights specified in section 40, on any other purpose connected with the well-being thereof:

Provided that, the costs assessed as aforesaid shall not exceed such amount as may be prevalent in the area for each day's labour of each of the labourers in respect of whom default has occurred.

Power to prepare record for canal.

40. (1) The Collector shall, whenever the State Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely:—

(*a*) the custom or rule of irrigation;

(*b*) the rights to water and the conditions on which such rights are enjoyed;

(*c*) the rights as to the erection, repair, reconstruction and working of mills, and the condition on which such rights are enjoyed; and

(*d*) such other matters as the Government may, by rule prescribe in this behalf.

(2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor

Provided that no such entry shall be so constructed as to limit any of the powers conferred on the Government by this Act

(3) When a record showing all or any of the matters enumerated in sub section (1) has been framed at any settlement of the land revenue already sanctioned by the Government and has been attested by the revenue officer, such record shall be deemed to have been made under this section

(4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the direction of the Collector, all information necessary for the correct preparation of a record under this section

(5) The provisions of Chapter IV of the Himachal Pradesh Land Revenue Act, 1953 shall, so far as may be, apply to the preparation and revision of every such record

Water Rates

Levy of water-rates

41. (1) Subject to the terms of any agreement made by it with the owners or irrigators, the Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner Such rate or rates shall be determined keeping due regard of the maintenance and operation charges for the system and the cost of collection of the water rates

(2) The Government may, by notification, direct that in addition to or in lieu of the rate or rates above mentioned the land revenue for the time being assessed on the land receiving canal water shall be enhanced in consequence of the change of the class of the land from unirrigated to irrigated

Provided that, the new rate of assessment shall not exceed that fixed at the time of settlement for irrigated lands of the same class in the same village or in its vicinity

Provided further that, the Government may allow such lands to continue to be assessed at the rate or rates at which they were assessed immediately before they became irrigated, for a number of harvests to be fixed by the Government

(3) The Government may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised manner

(4) The rate or rates imposed under sub-section (1) or sub section (2) or sub section (3) shall be leviable from such persons deriving benefit from the water as the Government may, by general or special rule direct

(
said,
shall
by general or special rule direct

(6) In the event of failure of crop due to reasons beyond the control of the farmer, he shall be entitled to remission of water rates for that [1][crop].

Liability when person using unauthorisedly cannot be identified.

42. If water supplied through a water-course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed, if such land has derived benefit therefrom, or if such person cannot be identified, or if such land has not derived benefit therefrom all the persons chargeable in respect of the water supplied through such water-course, shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Penalty when water runs to waste.

43. If water supplied through a water-course, be suffered to run to waste, and if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Charges recoverable in addition to penalties.

44. All charges for the unauthorised use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under section 42 and section 43 shall be decided by the Collector.

CHAPTER V

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE II

This chapter applicable only to under Schedule II.

45. (1) Except as the Government may otherwise direct under section 80 the provisions of this chapter shall apply only to canals for the time being included under Schedule II.

Appointment of manager.

(2) Where there are numerous share-holders in the ownership of a canal, or where it is difficult to ascertain the persons who are share-holders, or the extent of the interest of the share-holders, or any of them, the Collector, may, if there is no proper manager or representative, require by a proclamation or notice in writing, the share-holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share-holders or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

1 Substituted for the word "year" by Himachal Pradesh Act VII of 1956.

46. The State Government may, by notification, declare all or any of the provisions of section 40 (as to the preparation and revision of records) to be applicable to any canal, and upon any such declaration being made, such provisions shall, as far as may be, apply accordingly

Power of State Government to apply the provisions of section 40 to any canals

47. (1) It shall be lawful for the Government by notification to assume the control or management, or both of any canal—

Power to assume control or management or both of a canal

(a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given ,

(b) if, after inquiry, the Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity;

(c) in the event of any wilful and continuous breach of orders issued under section 50 of this Act

(2) When the control or management or both of any canal is assumed under the provisions of sub-section (1) the Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised and may delegate such powers or any of them to any person, but Government shall in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may at any time restore the canal to the owner.

48. When the control or management or both, of a canal shall be assumed by the Government under clause (b) or clause (c) of sub section (1) of section 47, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal

Right of owner upon such assumption to demand that the canal shall be acquired by the Government.

49. On receipt of notice under section 48, the State Government shall by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification the Collector shall proceed as provided in sections 57 and 58

Power to acquire canal on demand of owner

50. The State Government may, after inquiry through the Collector, in respect of any canal, issue orders as to all or any of the following things namely —

Power to fix the limits of irrigation and water rates and to regulate the distribution of water.

(a) fixing the limits within which land may be irrigated from such canal,

(b) fixing, as it may deem equitable, the amount and character of the water rates leviable by the owner, and the conditions on which such rates are to be paid, suspended remitted or refunded

(*c*) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years, previously is deprived of irrigation, or the income of the canal owner from such canal is materially reduced by reasons of any order passed under this section, the owners of such land or the canal-owner shall be paid by Government or by such persons as Government may determine such compensation as the Collector may consider reasonable :

Provided further that, if the canal-owner has in the opinion of the Government exercised his powers as such in an arbitrary or inequitable manner he shall not be entitled to compensation under this section.

Collection in certain cases of water-rates of canal by the State Government.

51. (1) The State Government may, at the request of the owner, undertake the collection of the water-rates leviable in respect of a canal for such period as may be agreed upon with him, and may, thereupon:—

(*a*) regulate such collection and determine the persons by whom it shall be made;

(*b*) direct that by way of payment for service rendered in making such collections, deductions shall be made not exceeding three per cent of the amount collected.

(2) During the period for which the Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted

CHAPTER VI

PROVISIONS APPLICABLE TO ALL CANALS

This chapter applicable to all canals.

52. Save as otherwise hereinafter expressly provided, the provisions of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

Consent or decision of the owner how to be determined.

53. Whenever, in respect of any canal, any question arises which has under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner and the ownership of such canal is vested in more persons than one who are unable to agree to such request, consent or decision, it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal.

In every such case the Collector shall give due consideration to the wishes of the share-holder or share-holders who possess the larger interest and when the question is one whether the Government shall be required to take any action, the wishes of such share-holder or share-holders shall prevail and be accepted by the Collector.

...e as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating that matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute — Settlement of disputes

(2) Upon the day so named or any such subsequent day aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner that is to say,

(a) If the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a Revenue Court under the provisions of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 and the provisions of that Act regarding appeals, revisions and reviews shall be applicable

...) If the dispute relates to a water course the Collector shall hear and determine the case as a Revenue Officer and shall make such order thereon as to him seems fit, and such order shall unless set aside on appeal to the Financial Commissioner be conclusive as to use or distribution of water for any crop sown or growing at the date of such order The order of the Financial Commissioner on appeal shall in every case be final

...1) Any person who has obtained the permission ...vernment to construct, or who owns a canal, ...y in writing to the Collector to take up any ...ired for the purposes of such canal — Acquisition of land for canals

... the Collector is of the opinion that the application ...ranted, he shall submit it, with his recommenda... orders of the Government

...in the opinion of the Government, the application ...her in whole or in part, be granted it may declare ...d is required for a public purpose within the ...he Land Acquisition Act, 1894, and direct the ...tion to be taken thereunder

...never it appears to the Government expedient ...interest to acquire any canal, the State ...may by notification declare that the said canal ...d after a day to be named in the said notifica... earlier than six months from the date thereof — Power to acquire canals by consent or otherwise.

Notice as to claims for compensation.

57. As soon as practicable after the issue of such notification the Collector shall cause public notice to be given at convenient places stating that the State Government intends to acquire the said canals as aforesaid and that claims for compensation in respect of the acquisition thereof may be made before him.

Inquiry into claims.

58. (1) The Collector shall proceed to inquire into any such claims and to determine the amount of compensation, which should be given to the claimant. In assessing such compensation the Collector shall proceed as provided in section 66, but for the purpose of this section he shall also have regard to the history of the canal, the expenditure incurred thereon and the profits of the owners.

Limitation of claims.

(2) No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 57 unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Vesting of canal in the Government.

59. (1) The Government shall by notification declare the day on which a canal has been acquired by it.

(2) Subject to the award of compensation to the owner of the said canal, when the Government acquires a canal,—

(*a*) the right, title and interest therein of the owner thereof shall forthwith cease and determine ;

(*b*) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

Power to regulate flow of water in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal therefrom of obstructions.

60. The Government may, by notification published in the official gazette, take power to regulate the flow of water in any river, creek, natural channel or line of natural drainage whether by the construction or removal of works or otherwise, and whenever it appears to the Government after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction or may within such limits order the removal of or the modification of such obstruction.

Power to remove obstruction after publication of notification and payment of compensation.

61. (1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

(2) The Collector may himself remove or modify the obstruction—

(*a*) if the person to whom the order under sub-section (1) was issued fails to comply with that order within the time so fixed; and

(*b*) in any case where the obstruction is not caused or controlled by any person ,

(3) the Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the person by whom such compensation shall be payable

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action

Power of the Collector to regulate flow of water and prohibit or remove obstructions

62. When the Government has by notification as provided in section 60 taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage it may authorise the Collector to exercise such power on its behalf in accordance with such rules as it may prescribe A Collector so authorised may in the execution of such rules exercise all the powers conferred upon him by section 61, and his authority shall include the power to take such action as the Government is empowered by section 60 to take after inquiry through the Collector Such authority may on every occasion be exercised without the publication of any further notification in the gazette

Powers as to the construction and the maintenance of works in respect of canals under Schedule II

63. (1) The Collector may, at any time, order the beneficiary of any canal under Schedule II to—

(*a*) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal,

(*b*) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under, or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made ,

(*c*) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal, across, under, or over any public road or thoroughfare or any canal or drainage channel which was in use before the canal was made,

(*d*) construct, repair and maintain, in a proper state suitable regulator at or near the head of the canal, where for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, road or property in the neighbourhood

(2) The Collector may at any time order a beneficiary to furnish unskilled labour free of cost for any one or more of the purposes specified in section 27 of this Act

(3) Every order under sub-sections (1) and (2) shall be in writing, and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.

(4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be so executed or completed, all works or repairs specified in the order.

Powers as to construction and maintenance of works in respect of canals under Schedule I.

64. In the case of canals included under Schedule I, the Collector may—

(*a*) call upon the beneficiary to discharge any of the liabilities specified in section 63 sub-section (1) which the Government may have declared to attach to the beneficiary from such canal or group of canals; or

(*b*) himself arrange for the performance of such acts and recover cost as provided in section 68.

Power to take possession and to construct works in cases of emergency.

65. (1) If any new work is immediately required to prevent serious detriment to the utility of a canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, take immediate possession of any land required for the construction of the work.

(2) When the Collector has taken possession of any land under sub-section (1) he shall, upon application made to him in this behalf, assess and pay compensation under section 66.

(3) In the event of sudden and serious damage or urgent risk to canal or to property situated in the immediate neighbourhood thereof, or to irrigation carried therefrom or to the public traffic, the Collector may, after giving previous notice, execute or cause to be executed, such works as he may think necessary in order to remedy or prevent such damage or risk, and may require any irrigator to furnish such labour as to the said Collector may seem reasonable and necessary for the immediate execution of such work.

(4) Labour furnished under this section shall be paid at the local market rate.

(5) An order passed under sub-sections (3) and (4) shall be final.

Assessment of compensation.

66. In assessing the amount of compensation to be paid under any section of this Act, other than sections 23, 25, 32, 50 and 61 the Collector shall proceed under the provisions of the Land Acquisition Act, 1894, and the provisions of that Act regarding inquiries and awards by the Collector, references to the Civil Courts and procedure thereon, apportionment of compensation, payment and appeals shall, as far as may be, be applicable to all proceedings under this section.

67. With the consent of the parties, the Collector may when assessing the amount of compensation to be paid, direct, in the case of any acquisition of land, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of a canal, or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired

Compensation for right of user or in the forms of supply of water

68. (1) When any land is acquired under the provisions of section 55, or when any work is executed by or under the order of the Collector under the provisions of section 61, section 63, section 64 or section 65, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable —

Appointment and recovery of the cost of land acquired or works executed

(a) if the canal is included under Schedule II—from the owner thereof, or

(b) if the canal is included under Schedule I—from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water-rate levied under section 41 , and

(c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 40 of the Act—from the fund referred to in section 39 of this Act

(2) When the cost of acquiring any land or of executing any work is, under the provisions of sub section (1), recoverable from the owners of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as to him may seem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final

(3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary rights, shall become the property of the canal-owner

69. The Government may, by general or special order, ...n of new, and regulate ...ds, and appropriation of

Power to regulate mills

70. ... sections ... Revenue ... ressed ... Land ... ...er this

Application of sections 14 to 17 of land

Exclusion of jurisdiction of Civil Court except under Land Acquisition Act.

71. Save as in section 66 provided no Civil Court shall have jurisdiction in any matter which a Revenue Officer or Revenue Court is empowered by this Act to dispose of, or take cognizance of the matter in which the Government, any Revenue Officer or Revenue Court exercises any powers vested in it or him by or under this Act.

Power to appoint officers to exercise functions under this Act.

72. (1) The Government may appoint any person or any class of officials to perform any functions or to exercise any powers by this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, if any, Financial Commissioner or such Government.

(2) Such appointment may be made in respect of any canal or of all or any of the canals situate within any specified local area.

(3) In all matters connected with this Act, the Government shall have and exercise over the Financial Commissioner, the Commissioner, if any, and the Collector, and the Financial Commissioner shall have and exercise over the Commissioner, if any, and the Collector, and the Commissioner, if any, shall have and exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue Administration.

Powers of Collector in certain proceedings under the Act.

73. For the purposes of every inquiry made and proceeding taken under this Act, the Collector or any other Revenue Officer, authorised by him in this behalf or any other officer authorised by the Government shall have power to summon and enforce the attendance of and examine parties and witnesses and compel the production of documents, and for all or any of these purposes may exercise all or any of the powers conferred on a Civil Court by the Code of Civil Procedure, 1908 and every such inquiry shall for the purposes of the Indian Penal Code, be deemed to be judicial proceedings.

Permission owners and parties interested in any canal to object in certain cases.

74. In all cases under sections 6, 22, 32, 34, 36, 42, 43, 45, 47, 49, 50, 51, 53, 54, 58, 60, 61, 63, 64 and 68 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.

Mode of servicing notice and making proclamation.

75. Every summons, notice, proclamation and other process issued under this Act shall, as far as may be, be served or made in the manner provided in that behalf in sections 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1953.

Bar of compensation where not expressly allowed.

76. Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done or in good faith intended to be done in exercise of any powers conferred by this Act or by the rules made thereunder.

Protection of persons acting under the Act.

77. No suit, prosecution or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done under this Act or the rules made thereunder.

78. (1) In any suit or]
made in any record prepared
is directly or indirectly called
before the final settlement of issues, give notice of the suit or proceeding to the Collector, and, if moved to do so by the Collector, shall make the Government a party to the same

proceedings

(2) Save as provided in sub-section (1) no suit shall lie against the Government in respect of anything done by the Collector or by any person acting under the orders of the State Government in exercise of any power by this Act conferred on such Collector or Government

Bar of other suits against Government.

79. All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provisions of this Act or under an agreement entered into by the owners of the canal or the person irrigating from it and all arrears of such water-dues, water-rates or other payments shall be recoverable as if the same were arrears of land revenue

Power to recover water dues and other charges by Revenue process

80. Any or all of the powers exercisable by the Government under this Act in respect of any canal, river, or creek may be exercised by such Government in the case of any canal, river, or creek, which is or may at any time be
'y without the limits of the
of so much of any such
these limits and in the case
Government may by
provisions of section 2,
be applicable thereto

Powers as regards canals, creeks, situated partly without the limits of Himachal Pradesh.

81. In respect of any canal situated beyond the limits of the Himachal Pradesh the Government may, by notification published in the Official Gazette, declare that the powers exercisable by a Collector, under section 65, may

Powers exercisable in cases of urgency with regard to canals situated beyond Himachal Pradesh.

82. Whoever without proper authority and voluntarily does any of the acts following, that is to say —

Offences under the Act.

(1) damages, alters, enlarges, or obstructs any canal,

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal,

(3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal,

(4) being responsible for the maintenance of any water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom or uses such

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) being liable to furnish labour under this Act, fails without reasonable cause to supply or to assist in supplying the labour required of him;

(7) being liable to supply labour under this Act, neglects without reasonable cause, so to supply and to continue to supply labour;

(8) destroys or removes any level-mark of water-gauge fixed by the authority of a public servant;

(9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;

(10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;

shall be liable on conviction before a Magistrate of such class as the State Government directs in this behalf to a fine not exceeding fifty rupees or to imprisonment not exceeding one month, or to both.

Power to arrest without a warrant.

83. Any person in charge of or employed upon a canal managed by public servants or by a local body including a Panchayat, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate, or to the nearest Police Station, to be dealt with according to law any person within his view, commits any of the following offences:—

(1) wilfully damages or obstructs any canal;

(2) without proper authority interferes with the supply of or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

Definition of canals for purposes of sections 82 and 83.

84. In sections 82 and 83 the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canals and all buildings, machinery, fences, gates and other erection, trees, crops, plantations or other produce upon such lands.

Power to make rules.

85. (1) The Government may make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Government, or upon any officer of Government, and generally to carry out the purposes of this Act.

(2) Without prejudice to the generality of the power conferred by sub section (1) rules made under this Act may, provide for the levy of a rate imposed upon land in consideration of its protection from sand or flood

(3) All rules made under sub-section (1) shall be so made after previous publication in the Gazette

(4) All rules made under this Act shall be laid before the Legislative Assembly as soon as may be after they are made

SCHEDULE I

SCHEDULE II

IV. INDEX TO AGRICULTURAL INCOME-TAX ACTS

V. INDEX TO BETTERMENT LEVY ACTS